

# **COURT REVIEW PANEL REPORT TABLE OF CONTENTS**

## **I. INTRODUCTION**

- A.**     Mayor's Charge
- B.**     Preamble
- C.**     The Panel Members
- D.**     Procedures

## **II. EXECUTIVE SUMMARY**

## **III. BACKGROUND OF THE COURTS**

- A.**     The Atlanta Municipal Court
- B.**     The City Court of Atlanta

## **IV. FINDINGS OF THE PANEL**

- A.**     The Municipal Court
  - 1.**     Composition
  - 2.**     Caseload.
  - 3.**     Judicial Schedules.
  - 4.**     Use of Judges Pro Hac Vice
  - 5.**     Use of Court Personnel.
  - 6.**     Use of Solicitors and Public Defenders
  - 7.**     Facilities
- B.**     The Community Court
- C.**     City Court (Traffic Court)
  - 1.**     Composition
  - 2.**     Caseload
  - 3.**     Judicial Schedules
  - 4.**     Use of Judges Pro Hac Vice
  - 5.**     Use of Court Personnel

6. Solicitors and Public Defenders
  7. Facilities
  8. Lack of Collegiality
- D. Complaint Room
1. Municipal Court
  2. Traffic Court
  3. Contact with Jail, Intake Facilities and Police Departments

## V. RECOMMENDATIONS

- A. Specific Recommendations
1. Judicial Scheduling (Municipal and Traffic Court)
  2. Municipal Court
  3. Traffic Court
  4. Complaint Room
- B. Recommendation for Systemic Change in the Operations of the Courts
1. Step 1: The City Should Resolve to Merge the Operations of the Municipal and Traffic Courts.
  2. Step 2: The City Should Commission a Performance Audit of the Existing Courts to Determine the Staffing and Facilities Needs of the Combined Operations of the Courts.
  3. Step 3: The Mayor Should Appoint the Existing Municipal Court Judges as Interim Traffic Court Judges and Authorize the Traffic Court Judges to Preside in the Municipal Court.
  4. Step 4: The Courts Should Implement the Audit's Recommendations by Retaining the Personnel Necessary to Run the Combined Operations of the Courts.
    - a. Personnel
      - i. Clerks
      - ii. Bailiffs

b. Court Services

5. Step 5: The Municipal and Traffic Courts' Solicitors' Offices Should be Combined into a Single Office, as Should the Municipal and Traffic Courts' Public Defenders' Offices. Once Consolidated, the Offices Should Attempt to Implement the Audit Recommendations.
6. Step 6: The City Should Configure the City Court Building to Meet the Needs of the Combined Operations and Move the Combined Operations into the City Court Building.
7. Step 7: After the Combined Court Has Been in Operation, the City Should Commission a Second Performance Audit and a Fiscal Audit to Assess the Workings of the Combined Court and Make Additional Changes, As Necessary, Based on the Audits' Recommendations.

VI. RECOMMENDATIONS FOR FUTURE CONSIDERATION

VII. CONCLUSION

**REPORT OF THE INDEPENDENT REVIEW PANEL CONCERNING  
THE ATLANTA MUNICIPAL COURT AND THE CITY COURT OF ATLANTA**

Byron Attridge, Chairman  
Ted C. Baggett  
Paula J. Frederick  
Mark J. Kadish  
Teresa Wynn Roseborough  
Thomas G. Sampson

## **I. INTRODUCTION**

### **A. Mayor's Charge**

On November 20, 2002, the Honorable Shirley Franklin (the "Mayor") of the City of Atlanta created The Mayor's Municipal and City Court Review Panel (the "Panel") pursuant to Administrative Order No. 2002-10 (the "Order"). (See Administrative Order No. 2002-10 and Amended Administrative Order No. 2002-10 attached as Exhibit 1 to this Report.) The Panel was created to "advise the Mayor on the court systems of the City of Atlanta (the "City") and whether the current systems could be revised in light of the goals of efficiency, avoidance of duplication, focus on essential services and cost savings to the taxpayers." (Ex. 1 at ¶ 3.) The Mayor created the Panel pursuant to her authority under Section 3-104 of the City of Atlanta Charter and Section 2-182(4) of the City of Atlanta Code of Ordinances which provide the Mayor with the authority to conduct studies and investigations into any department or agency under her jurisdiction.

The Panel was directed to provide "recommendations regarding potential changes to the court system and ... include in those recommendations an analysis of what action would be needed to accomplish those changes." (Ex. 1 at ¶ 7.)

The review directly involved the two courts for which the City has fiscal responsibility: The Municipal Court of the City of Atlanta and The City Court of Atlanta (the latter being more commonly known as the "Traffic Court") (collectively the "Courts"). The study also involved these Courts' past, present, and future relationships with the county courts and related law enforcement agencies.

### **B. Preamble**

The Panel members, in accepting responsibility for this review, are keenly aware of the importance of the Courts in our City. These Courts are the only courts that most citizens will ever see in action, and they remain the basis for much of the public's impression of the administration of justice. The Panel is also aware of the importance of

judicial independence in order for the Courts to perform their duties with complete fairness to all individuals. Efficient management of the court system is an integral part of that independence:

Independence is not likely to be achieved if a trial court is unwilling or unable to manage itself, to establish and support effective leadership, to operate effectively within the state court system, to develop plans of action (including obtaining resources necessary to implement those plans), and to measure accurately and account publicly for its performance.

Commission on Trial Court Performance Standards, *Tentative Trial Court Performance Standards with Commentary*, National Center for State Courts and Bureau of Justice Assistance, US Department of Justice (1989).

It should be understood that the Panel's focus has been directed toward the judicial systems in each court. The review does not involve an evaluation of the individual judges or *pro hac* judges of these Courts. The same is true with respect to the solicitors, public defenders, and other court personnel.

Finally, it is the expectation of the Panel that this Report will offer potential solutions to affect greater efficiency in the Courts, to raise the standard of professionalism throughout the system, to foster greater collegiality amongst the judges and the lawyers who practice within these Courts, and to enhance the public's respect for these Courts.

### **C. The Panel Members**

The Order requires that the Panel "consist of three or more members of the State Bar of Georgia, with experience in litigation, court prosecutions and/or other relevant experience." (Ex. 1 at ¶ 1.) The following individuals served on the panel: Byron Attridge (Chairman), Ted C. Baggett, Mark J. Kadish, Paula J. Frederick, Teresa Wynn Roseborough, and Thomas G. Sampson. (See Biographies of the Panel Members attached as Exhibit 1a.)

The Panel had invaluable support from the following lawyers: Letitia A. McDonald, Jennifer R. Vala, and Civia L. Gerber, all at King & Spalding LLP; Allegra Lawrence of Sutherland, Asbill & Brennan; Joanna Deering and Lindsey Churchill both of Georgia State University College of Law.

**D. Procedures**

In carrying out its review, the Panel has taken the following actions:

1. Reviewed the constitutional and legislative history of both Courts, including the various city regulations and procedures related to the Courts;
2. Conducted in-depth interviews\* with the chief judges, other representative judges, solicitors, public defenders, clerks, and other personnel of both Courts;
3. Conducted interviews\* of individuals in related courts such as the Superior Court of Fulton County, the Magistrate Court of Fulton County, and the State Courts of Fulton and DeKalb Counties;
4. Conducted interviews\* of the Fulton County District Attorney's office (particularly with Complaint Room personnel), the Atlanta Chief of Police, certain deputy police chiefs, the Fulton County Sheriff, the Chief of the Atlanta Detention Center and various members of the law enforcement community;
5. Conducted interviews\* of representatives of the Atlanta Bar Association and other private practitioners in the Courts;
6. Conducted interviews\* of judges in other jurisdictions;
7. Reviewed available documents of each court relating to number of cases, judicial, solicitor and public defender caseloads, dispositions and other information relating to the operations of the court;

8. Studied various reports of the specific Courts, such as the National Center of State Court Study of the Traffic Court which was completed in January of 2000, and discussed this report with members of the National Center for State Courts;
9. Reviewed various articles relating to case flow management, trial courts generally, traffic courts and courts of limited jurisdiction, from the American Bar Association and the Department of Justice;
10. Received information from the Georgia Municipal Association regarding court procedures in a number of other cities and counties in Georgia;
11. Reviewed the Report of the Task Force on Homelessness (“Homeless Commission Report”) as it relates to the Courts;
12. Observed the operations of the Courts;
13. Observed the operations of the Magistrate Court;
14. Observed the operations of the Fulton County Complaint Room;
15. Reviewed the plans for and toured the new City Court Building and existing Municipal Court Building;
16. Observed and received information regarding the operations of other courts outside of Georgia; and
17. Conducted two public hearings for members of the public to speak regarding the Courts.

Accordingly, this Report is followed by a five volume appendix containing documents and other relevant material collected by the Panel in the course of its investigation. (See Appendix Table of Contents attached as Exhibit 53.)

## II. EXECUTIVE SUMMARY

The Panel was charged to “advise the Mayor on the court systems of the City of Atlanta and whether the current systems could be revised in light of the goals of efficiency, avoidance of duplication, focus of essential services and cost savings.”



Further, it was directed to provide “recommendations regarding potential changes to the court system. . .” The two courts involved are the Municipal Court and the City Court (“Traffic Court”) which have jurisdiction over violation of City ordinances and certain misdemeanors and traffic violations, respectively. Each court has nine full-time judges, and employs numerous part-time (*pro hac*) judges. Both Courts handle a high volume of matters or cases. The Municipal Court and the Traffic Court are of utmost significance to the City of Atlanta because they are the only courts with which most citizens are involved. These Courts have served the City for many years and have a number of fine judges and employees. The Panel appreciates the cooperation which it has received from the judges and personnel of these Courts while conducting its review.

The focus of the Panel’s review was on the general operations of both of the Courts -- caseloads, judges’ schedules, existing personnel, solicitors and public defenders, and the law enforcement agencies with whom the Courts deal. There are two factors that have affected the Panel’s analysis: first, the Mayor’s directive, effective January 6, 2003, transferred to the State courts upwards of approximately 70% of the cases that were being handled by the Municipal Court. These cases were State cases which, by historic practice, had their first appearance in the Municipal Court before being transferred or “bound over” to the State court. Second, the construction of a new multi-story building for Traffic Court which will be completed during 2003. The Traffic Court does not plan on using the entire building at this time. The new building offers certain alternatives to the City judicial systems.

The following is a summary of the Panel’s recommendations:

- I. The operations of the Municipal Court should be consolidated into the operations of the Traffic Court. This consolidation will bring about greater efficiencies and will avoid duplication of existing services. It will allow a better utilization of the regular judges, reduce the non-essential staff, and reduce the use of part-time judges.

The combined operation should be located in the new City Court building. In such event, the present Municipal Court building (which is relatively new) could be used for other Municipal functions, leased to the County or sold. The Atlanta Detention Center is located in the Municipal Court complex.

II. The Courts should implement the following specific changes:

A. The regular judges of both Courts should perform a thoughtful review of their own caseloads and schedules. Following this review, the judges should make reasonable adjustments in their schedules to absorb the work that is currently being passed off to *pro hac* and senior judges. The use of *pro hac* judges should be discontinued except in extraordinary circumstances.

B. Where the regular judges of the Municipal Court remain underutilized, even following this review, the judges should be offered to the Traffic Court or to the State Court, as needed.

C. The Courts should perform an internal review of court staff and personnel with a view toward reducing the number of non-essential personnel.

D. The Solicitors and Public Defenders of both Courts should internally review their caseload and personnel. This will be particularly important for the Municipal Court in light of the significant decrease in caseload following the January 6, 2003 transfer of misdemeanor and felony hearings to State court.

E. The Solicitors of both Municipal and Traffic Court should strive to work with the Police Department to assure that policemen and policewomen have as little court time as possible in order that they may be on duty in their regular capacity as much as possible.

F. The record-keeping systems and computer systems of both Courts should, with analysis provided by outside professional court administrative assistance, be reviewed with a view toward establishing information systems that will

allow the Courts to be more accountable to the City and to the public. The computer systems and record-keeping of the two Courts should be made compatible and to the extent possible, should be compatible with the Police Department and other City departments.

G. The Municipal Court and the City should continue to work with the Community Court and engage in a dialogue with the greater metropolitan entities regarding how to best facilitate and finance the social services provided by the Community Court.

III. The City and both Courts should continue to study the possibility of bringing the Municipal and Traffic Courts into the State court system. The Panel urges the City and Fulton and DeKalb Counties to continue to engage in dialogue on as many common issues as might be reasonable that would involve the reduction in the duplication of services.

### **III. BACKGROUND OF THE COURTS**

#### **A. The Atlanta Municipal Court**

The modern Atlanta Municipal Court was created under the imprimatur of the 1983 Georgia Constitution, which provided the Georgia General Assembly with the authority to “establish or authorize the establishment of municipal courts . . . [with] jurisdiction over ordinance violations and such other jurisdiction as provided by law.” Ga. Const. art. VI, § 1. In 1986, the General Assembly enacted legislation which provided that every municipal corporation in Georgia may (but is not required to) “establish and maintain a municipal court having jurisdiction over the violation of municipal ordinances and such other matters as are by general law made subject to the jurisdiction of municipal courts.” O.C.G.A. § 36-32-1. Municipal courts have also been granted concurrent jurisdiction by the General Assembly over certain misdemeanor cases in which a person is charged with: (1) possession of one ounce or less of

marijuana; (2) operation of a motor vehicle without insurance; (3) operation of a motor vehicle without a certificate of emission inspection; (4) shoplifting; (5) furnishing alcohol to a minor; (6) violation of the Uniform Rules of the Road; (7) certain driver's license violations; and (8) operation of a motor vehicle without a license or registration. See O.C.G.A. §§ 36-32-6, 7, 8, 9, 10 and O.C.G.A. § 40-6-372. In addition, the Municipal Courts have the authority to act as magistrates over state offenses. See O.C.G.A. § 36-32-3.

The Atlanta Municipal Court, unlike municipal courts in other Georgia municipalities, does not hear cases relating to traffic violations. Within the City of Atlanta, these cases are heard exclusively by the Traffic Court. (See discussion III.B *infra*.)

The Atlanta Municipal Court is located at 170 Garnett Street in downtown Atlanta, Georgia. (See The Atlanta Municipal Court Presents attached in pertinent part as Exhibit 2.) In 2002, the Atlanta Municipal Court employed nine (9) full time judges, ten (10) *pro hac* judges, twenty-four (24) solicitors, and nineteen (19) public defenders. (See Roster of Municipal Court Judges According to Seniority attached as Exhibit 3, and *Pro Hac* Judge Salaries attached as Exhibit 4; Bullet-Point Summary of the Meeting with Raines Carter, Solicitor for the Municipal Court of Atlanta, 1/7/03 ("Carter Interview") attached as Exhibit 5; Bullet-Point Summary of Meeting with Harry S. Gardner, Public Defender for the Municipal Court of Atlanta, and Vanessa Hickey-Gales, Deputy Director of the Public Defender's Office, 1/13/03 ("Gardner and Hickey-Gales Interview") attached as Exhibit 6.) The solicitor's office employed thirty-eight (38) non-lawyers, and the public defender's office employed nine (9) non-lawyers. (See Carter Interview attached as Exhibit 5; Gardner and Hickey-Gales Interview attached as Exhibit 6.) The court employed one hundred eleven (111) other personnel excluding judges, lawyers, and

personnel in the solicitors and public defenders' offices. (See City of Atlanta Municipal Court Organizational Chart attached as Exhibit 7.)

The nine judges who preside over the Municipal Court are Chief Judge Barbara Harris, Judge Elaine Carlisle, Judge Clinton DeVeaux, Judge Deborah Greene, Judge Howard Johnson, Judge Catherine Malicki, Judge Andrew Mickle, Judge William Riley, and Judge Herman Sloan. (See *id.*)

Prior to January 6, 2003, the Municipal Court acted as a magistrate court for all persons arrested within the city limits of Atlanta and charged with state misdemeanor or felony offenses.<sup>[1]</sup> All persons arrested in the City prior to January 6, were booked into the Atlanta Detention Center, which is attached to the Atlanta Municipal Court complex, were afforded a first appearance (notice of charges and bond hearing), were provided a preliminary hearing at the Atlanta Municipal Court, and ultimately received a *de novo* review in the District Attorney's Office or the Solicitor General's Office of the State or Superior court or charges against the person were dismissed. Accordingly, prior to January 6, 2003, the Atlanta Municipal Court judges acted as magistrates with respect to all defendants arrested and charged with state misdemeanor or felony offenses within the city limits of Atlanta. After January 6, 2003, at the direction of the Mayor, all defendants charged with state crimes and arrested within the City of Atlanta were booked directly into the Fulton and DeKalb County jails. In effect, the Mayor's order bypassed the Atlanta Municipal Court and allowed DeKalb and Fulton County magistrates to perform the magistrate function historically performed by the Municipal Court judges. Prior to January 6, 2003, the vast majority of the Municipal Court's caseload was made up of arraignments and processing state offenses. For instance, in 2002, the Municipal Court processed approximately 149,000 cases, only 18,396 of those related to ordinance violations.<sup>[2]</sup> (See City of Atlanta Municipal Court Annual Report 2002 attached as Exhibit 8.)

**B. The City Court of Atlanta**

The modern City Court of Atlanta (“Traffic Court”) was created in 1956 by Constitutional Amendment. See 1956 Ga. Laws 415; Edward C. Brewer, *The City Court of Atlanta and the 1983 Georgia Constitution: Is the Judicial Engine Souped Up or Blown Out?*, 15 GA. ST. U. L. REV. 941, 987-992 (1999). The Amendment gave the Traffic Court jurisdiction over state misdemeanor traffic violations. See 1956 Ga. Laws 415. In 1967, a general amendment to the Georgia Constitution was passed, expanding the Traffic Court’s jurisdiction to include City of Atlanta traffic ordinance violations. See 1967 Ga. Laws 963. That same year, the General Assembly passed an Act which spelled out several specifics regarding the Traffic Court. See 1967 Ga. Laws 3360.

The Traffic Court was continued in the 1976 and 1983 Georgia Constitutions. In 1988, the City Court’s jurisdiction was once again expanded to include misdemeanors arising out of the “same occurrence as . . . [the] traffic offense.” See 1988 Ga. Laws 261. In 1996, the General Assembly further defined the jurisdiction of the Traffic Court (the “Traffic Court Act”).

The City Court of Atlanta’s jurisdiction is coextensive with the territorial limits of the City of Atlanta. Its jurisdiction currently includes:

[a]ll crimes and offenses under the laws of the state relating to and regulating traffic, and all other crimes and offenses arising out of the same occurrence as such traffic offense, not above the grade of misdemeanor and not exclusively cognizable in superior courts

[and]

[a]ll offenses against the duly enacted laws and ordinances of such city relating to and regulating traffic, and all other offenses against laws and ordinances of such city arising out of the same occurrence as such traffic offense.

1996 Ga. Laws 627, § 3.

In 2002, the Traffic Court employed nine (9) judges, thirteen (13) *pro hac* judges, sixteen (16) solicitors, and ten (10) public defenders. (See City Court Salary Information

attached as Exhibit 9; Bullet-Point Summary of Meeting with Kevin Jones, Public Defender for the City Court of Atlanta, 1/8/03 (“Jones Interview”) attached as Exhibit 10.) The Solicitor’s office employed twenty-two (22) non-lawyers, and the public defender’s office employed eight (8) non-lawyers. (See Ex. 10.) The Court employed one hundred and fifty eight (158) other personnel (excluding judges, lawyers and personnel in the solicitors and public defenders’ offices). (See List of City Court of Atlanta Employees attached as Exhibit 11.)

The nine judges who preside over the Traffic Court are: Chief Judge Calvin Graves, Judge Edward Baety, Judge Crystal Gaines, Judge Andrew Hairston, Judge Gary E. Jackson, Judge Lenwood Jackson, Judge Nina Radakovich, Judge Lisa Smith, and Judge Julie Walker. (See City Court Salary Information attached as Exhibit 9.) Of the thirteen *pro hac* judges, three are senior judges. (See *id.*) They are Judge Edward Brock, Judge Carson Shafer, and Judge Joe Browne. (See *id.*)

In 2002, the Traffic Court disposed of approximately 200,000 citations; of these approximately 50,000 were resolved by paying fines in lieu of disposition by the Court. (See Comparative Report Number of Citations Issued attached as Exhibit 38; 2002 Monthly Total Dispositions attached as Exhibit 46.)

#### **IV. FINDINGS OF THE PANEL**

In connection with its review, the Panel has identified several areas in which both the Municipal Court and the Traffic Court systems suffer from inefficiencies and duplication of services, which may be improved by the Courts’ own internal evaluation. The Panel’s findings are as follows:

##### **A. The Municipal Court**

Based on the Panel’s interviews, review of relevant documents, and personal observations, we have identified the following issues negatively impacting the effective and efficient operation of the Municipal Court: (1) underutilization of the Municipal Court

caused by a significant reduction in its caseload in the first quarter of 2003 and for the foreseeable future; (2) excessive use of judges *pro hac vice*; (3) non-essential personnel and staff; and (4) non-essential solicitors and public defenders. While these issues have been severely exacerbated by the extreme reduction in the Municipal Court's caseload resulting from the Mayor's Order of January 6, 2003, most were evident even before that court was relieved of its magistrate functions.

1. *Composition*

The Atlanta Municipal Court hears and decides all cases arising out of violations of the City of Atlanta ordinances. See Ga. Const. art. VI, § 1; O.C.G.A. § 36-32-1; City of Atlanta Charter § 4-102. The Atlanta Code of Ordinances covers such things as (1) the regulation of the sale and distribution of alcoholic beverages within the City; (2) the regulation of aviation -- specifically, the regulation of the motor vehicle traffic and ground transportation services at Hartsfield International Airport; (3) the regulation of the environment; (4) the regulation of streets, sidewalks, and other public places; and (5) the regulation of offenses against property rights, public order, public morals, minors, and wrongful use or possession of weapons. See City of Atlanta Code of Ordinances, §§ 1.1 *et seq.*

Prior to 2003, in addition to overseeing the enforcement of city ordinances, the Atlanta Municipal Court heard state felony and misdemeanor cases for persons arrested within the City of Atlanta and charged with state offenses. As of January 6, 2003, however, the Atlanta Municipal Court was effectively stripped of its jurisdiction over state offenses when the Mayor ordered that all persons arrested within the City and charged with state offenses be taken to the appropriate county jail (either Fulton or DeKalb).

Nine permanent judges sitting in five divisions currently preside over the Atlanta Municipal Court. (See Ex. 7.) In 2002, the Court employed ten (10) *pro hac* judges. (See Ex. 4.) When the Panel began its study, the Municipal Court employed one



hundred eleven (111) other personnel (excluding judges, lawyers, and personnel in the solicitors and public defenders' offices). (See Ex. 7.) That number has since been reduced in response to the Mayor's goal of a 25% reduction in the Municipal Court's budget for fiscal year 2003. (See City of Atlanta Municipal Court Organizational Chart Reduction attached as Exhibit 12.) The Municipal Court solicitor's office employs twenty-four (24) solicitors and thirty-eight (38) non-lawyers. (See Ex. 5.) The Municipal Court's public defender's office employs sixteen (16) public defenders and ten (10) non-lawyers. (See Ex. 6.) When the Panel began its investigation, the Municipal Court employed a total of 220 people.

The Municipal Court complex currently houses four courtrooms. A fifth courtroom is under construction and near completion. Each Municipal Court judge has a private office. All of the Municipal Court's operations -- save the solicitor's and public defender's offices -- are housed in the Municipal Court complex, and the Atlanta Detention Center is attached to the Municipal Court building. The solicitor's office is located at Garnett Street Station adjacent to the Municipal Court complex. The public defender's office is located in the Fairlie Poplar District of downtown Atlanta.

In 2002, the Municipal Court operated at a total cost of \$15,193,060.00. (See City of Atlanta Court System Reviews of Revenues and Expenditures ("System Review") attached as Exhibit 13.) That year, the Municipal Court brought in \$891,197.00 in fines.<sup>[3]</sup> (See *id.*; Judicial Revenues attached as Exhibit 14; *but see* Total Amount of Fines Collected by the Municipal Court in the Year 2002 Documents attached as Exhibit 15 (stating that the Municipal Court collected \$736,187.52 in fees in 2002).) In 2001, the Court operated at a cost of \$14,116,005.00 and brought in \$1,007,807.00 in fines. (See Ex. 13; Ex. 14.) In 2000, the Court operated at a cost of \$12,206,362.00 and brought in \$1,139,775.00 in fines.<sup>[4]</sup> (See *id.*)

## 2. Caseload.

The Panel has reviewed the caseload of the Municipal Court. Between the time the Mayor appointed the Panel and the present, the caseload of the Municipal Court has decreased dramatically, significantly impacting this Panel's findings and recommendations.

As noted above, effective January 6, 2003, all persons arrested within the city limits of Atlanta and charged with state offenses are taken to either the DeKalb County jail or the Fulton County jail. This has had the practical effect of stripping the Atlanta Municipal Court of jurisdiction over the arraignment of persons charged with state offenses and arrested within the city limits of Atlanta, which constituted the majority of the matters that came before the Municipal Court.

To assess the impact of the Mayor's order on the Municipal Court's caseload, the Panel requested that the Municipal Court provide it with "the number of cases processed by the Atlanta Municipal Court in 2002." (See January 28, 2003 Letter from Jennifer R. Vala to Paula Y. Ables attached as Exhibit 16.) The Municipal Court responded that a total of 41,655 cases (149,501 charges) were processed by the regular judges of the Municipal Court in 2002, and 8,746 cases were processed by the *pro hac* judges in 2002. (See Total Number of Cases Processed by Each Permanent Judge in 2002 attached as Exhibit 17; Ex. 8; Total Number of Cases Processed by Each Pro Hac attached as Exhibit 18.) Of these 149,501 charges, 18,396 were ordinance violations. (See Ex. 8.)<sup>[5]</sup> In 2001, the Municipal Court processed 154,425 charges, 20,916 or 14% of which were ordinance violations.<sup>[6]</sup> (See Municipal Court 2001 Annual Report attached as Exhibit 19.) In 2000, the Municipal Court processed 159,629 charges, and 23,101 of those charges were city ordinance violations.<sup>[7]</sup> (See Municipal Court 2000 Annual Report attached as Exhibit 20.) These statistics reveal that even before the Mayor's Order, the number of ordinance violations processed by the Municipal Court

was dropping steadily and decreased by over 4,500 charges between 2000 and 2002 alone. (See Ex. 19.) In response to the Mayor's change, in the first quarter of 2003, the caseload of the Municipal Court dropped by 43%. (See Comparative Analysis of 2002 and 2003 First Quarter Caseload attached as Exhibit 21.) The Panel suspects that the Municipal Court's caseload (relative to the same period in 2002) will continue to drop even further in the second quarter, as the first quarter numbers included bind-overs that had been reset for court appearances in January and February 2003. Moreover, the Municipal Court judges, prosecutors, and public defenders admit that they are operating at a significantly reduced caseload.

Those connected with the Community Court (discussed hereafter) have indicated that they expect that the prosecution of ordinance violations will increase in the future, and indeed, the Chief of Police of the City of Atlanta recently announced an initiative to step-up the enforcement of pan-handling ordinances within the City.

Notwithstanding these projections, the Municipal Court has experienced a significant decrease in caseload in the first quarter of 2003. While it remains to be seen whether there will be an increase in the enforcement and prosecution of so-called "quality of life crimes" in the future and a resultant increase in the number of defendants opting for the Community Court, there has not been a noticeable increase to date. And, indeed, there was approximately a 12% decrease in the number of ordinance violations processed by the Municipal Court between 2001 and 2002. (*Compare* Ex. 19 *with* Ex. 20.) Clearly, for whatever the reasons, there has been a dramatic decrease in the caseload of the Municipal Court.

Municipal Court judges are appointed for a term of four years. See City of Atlanta Charter § 4-104. Once appointed, Municipal Court judges are retained according to what is commonly known as the Missouri Plan. Under the Missouri Plan, "if a majority of those voting [] vote to retain a judge, the judge, is thereupon retained for a four-year

term.” City of Atlanta Charter §4-107. Accordingly, if the City determines that the current number of judgeships is not in line with the needs of the Municipal Court, the City should take the necessary action to eliminate position(s) prior to the next judicial elections.

### 3. *Judicial Schedules.*

The Municipal Court calendar is divided roughly into five categories: Ordinance Court, Domestic Court, Housing Court, Zoning and Environmental Court, and Community Court. The Court operates on a “morning Court” and “afternoon Court” system. (See Atlanta Municipal Court, Managers and Supervisors Organizational Chart Court Sessions (“Municipal Court Sessions”) attached as Exhibit 22.) The morning sessions are generally held from 8:00 am until noon, and the afternoon calendar generally lasts from 2:00 p.m. until 6:00 p.m. (See City of Atlanta Municipal Court -- Court Sessions and Pockets attached as Exhibit 23.) The judges preside over a morning or afternoon calendar five days a week. (See Name, Salary and Current Daily Schedule of each Permanent Judge Presiding for Atlanta Municipal Court attached as Exhibit 24.) Thus, as a general rule, no full time Municipal Court judge is “on the bench” more than four hours per day. This half-day schedule has become a normal practice over time and has become particularly troubling in light of the drastic caseload reduction.

Courtroom personnel also work either the morning or the afternoon sessions. As discussed in more detail below, each judge has a personal staff that is “in court” when the judge is in court and that leaves court when the judge leaves the court. (See A.M. Court and P.M. Court Documents attached as Exhibit 25.) Thus, for example, during the morning session, the bailiffs assigned to a particular judge are present in the courtroom while the judge presides, but are free to leave work once the morning session is completed. When the afternoon begins, a new judge assumes the bench, and new

courtroom staff assume the courtroom. Accordingly, there are two sets of staff for every courtroom -- the morning staff and the afternoon staff.

#### 4. *Use of Judges Pro Hac Vice*

Through initial interviews of judges, attorneys, and others, the Panel requested that the Municipal Court provide the Panel with (1) "the total number of cases processed by each permanent judge in the year 2002," (2) "the identity and salary of each *Pro Hac* judge who presided over the Municipal Court during the years 2000-2002," (3) "A schedule of the days each *Pro Hac* judge sat on the Municipal Court in the years 2000-2002," (4) "The reason each *Pro Hac* judge was called in to sit on the Municipal Court," (5) "the total number of days that a *Pro Hac* judge sat for a permanent judge from 2000-2002," (6) "the total number of days each *Pro Hac* judge sat on the Municipal Court in the year 2002," and (7) "the total number of days each permanent judge utilized a *Pro Hac* judge during the year 2002." (See Ex. 16.)

The Municipal Court responded with a candid report that shows a high level of judicial absenteeism. For example, in 2000, eight judges were absent for a combined total of 534 days, an average of 59 days each. (See 2000 *Pro Hac* Usage Chart attached as Exhibit 26.) In 2001, the same eight judges were absent a total of 565 days, an average of 71 days each. (See 2001 *Pro Hac* Usage Chart attached as Exhibit 27.) In 2002, the nine judges were absent a combined total of 296 days, an average of 38 days each. (See 2002 *Pro Hac* Usage Chart attached as Exhibit 28.)

The Court utilized ten (10) *pro hac vice* judges in 2000, nine (9) *pro hac vice* judges in 2001 and ten (10) in 2002. (See Ex. 4.) In 2000, the ten (10) *pro hac* judges worked 773 days costing \$171,271.65, in 2001, the nine (9) *pro hac* judges worked 880 days at a cost to the taxpayers of \$197,603.55, and in 2002, the ten (10) *pro hac* judges worked 402 days, costing the Municipal Court approximately \$99,296.00. (See Municipal Court Pro Hac Usage Documents 2000-2002 attached as Exhibit 29; Ex. 4.)

The regular experienced judges do not appear to be fully utilized, and cases are not being heard as planned because a judge is not present. In interviews, Municipal Court employees complained that judicial absenteeism prevented them from the efficient performance of their duties. Practitioners also complained that they felt that some judges did not treat cases thoroughly and that there was pressure from some judges to end court sessions early and not push to get cases timely heard and completed.

5. *Use of Court Personnel.*

In light of the reduction in caseload, the Panel examined the current staffing of the Municipal Court. In response to the Panel's request that the Municipal Court identify the "name and position of each current staff member assigned to a permanent Municipal Court judge" and "the identity and position of each person not identified [as a current staff member assigned to a permanent Municipal Court Judge]" employed by the Municipal Court in 2002, the Municipal Court provided the Panel with the names of one hundred and eleven (111) people employed by the Municipal Court – not including the full time judges, *pro hac* judges or the persons who staff the solicitors' and public defenders' offices. (See Ex. 7.)

The number of people personally assigned to each full time judge is excessive.<sup>[8]</sup> The personnel lists initially provided to the Panel show that eight of the nine full time judges have three (3) bailiffs assigned to him or her, while one judge has two bailiffs assigned to him, for a total of twenty-six (26) bailiffs personally assigned to nine judges. (See Ex. 25.) The judges' personal bailiffs cost the City an estimated \$750,000.00 annually. (*Relying on* Municipal Court's Proposed Personnel Reductions 30.) In addition, there are nine "floater" bailiffs assigned to the judges. (See Ex. 25.) These additional bailiffs are employed at an approximate cost to the taxpayers of \$250,000.00. The cost of employing the thirty-five bailiffs staffed the Municipal Court when the Panel began its study came to an estimated total of \$1,000,000.00.

It appears that because bailiffs are assigned to courtrooms only for a morning session or an afternoon session, the bailiffs do not have any duties once the judge to whom they are assigned has left the courtroom. In addition, there appears to be duplication among the judges' personal staff and the administrative personnel assigned to each courtroom. For example, each judge has a "clerk" (as well as a secretary) on his or her staff. (See Ex. 25.) In addition, two clerks are assigned to each of the four courtrooms in the morning and the afternoon sessions. (See *id.*) As a result, for example, there is both a senior court clerk and a calendar clerk for each of the morning sessions held in courtrooms one and two, in addition to the judges' personal clerks. (See *id.*) In the afternoon, a different calendar clerk and senior court clerk are assigned to courtrooms one and two, in addition to the afternoon judges' personal clerks. (See *id.*)

Six of the nine judges share a secretary, and three judges have personal secretaries. The nine judges have an additional eleven other administrative staff members that assist them personally, including two law clerks. (See Ex. 25.) In addition, the Municipal Court administrative division employs additional people ranging from the Clerk Administrator to the "Acting Cash Collection Supervisor."

The Solicitor's office also assigns two attorneys to each courtroom and one investigator per courtroom. (See Ex. 5.) The public defenders' office similarly provides two attorneys in each courtroom but has no other administrative staff in the courtroom. (See Ex. 6.)

There has been a reduction in personnel spurred by the Mayor's order that the Court reduce its budget for fiscal year 2003 by 25%. (See Municipal Court's Proposed Personnel Reductions attached as Exhibit 30.) However, the majority of the positions that have been de-funded appear to have come from the general administrative staff, not from the judges' personal staffs. (See *id.*) While the Panel is not in a position to

determine the specific number of court personnel needed, or the specific positions that should be retained, the Panel finds that the Municipal Court employs a number of non-essential court personnel, and particularly personnel among the judges' staffs.

6. *Use of Solicitors and Public Defenders*

The Municipal Court currently employs twenty-four solicitors<sup>[9]</sup> and sixteen public defenders. (See Ex. 5; see *also* Ex. 6.) In addition, the Solicitor's office employs thirty-eight (38) staff members, while the Public Defender's office employs ten (10) staff members. (See *id.*) Cuts were made in both offices in response to the Mayor's directive that the Municipal Court reduce its expenditures by 25% for fiscal year 2003. The Solicitor's office eliminated fifteen (15) positions, while the Public Defender's office eliminated four (4) attorneys in 2002 and eight (8) attorneys and one investigator in 2003. The Solicitor's office has recently eliminated fifty-percent (50%) of the warrant officers.

Two solicitors and one investigator are assigned to each courtroom for the morning session. (See Ex. 5.) A new group of solicitors, warrant officers, and investigators take the afternoon session. One warrant officer is assigned to every two courtrooms. Similarly, two public defenders are assigned to each courtroom for the morning and afternoon sessions. (See Ex. 6.) According to the Solicitor's office, the two solicitors in each courtroom take turns -- one handles motions, pleas and trials, while the other negotiates pleas. (See Ex. 5.) Prior to the Mayor's order, on average, the Municipal Court solicitors worked fifty hours per week (and kept billable hour records). (See *id.*) The Municipal Court public defenders are also assigned to courtrooms but are reassigned when the assigned court is closed. (See Ex. 6.) According to the Public Defender's office, public defenders are appointed in most cases because a majority of the defendants are indigent, and many are homeless. (See *id.*) Prior to the Mayor's



order public defenders in the Municipal Court processed an average of 1,200 cases per year. (See *id.*)

Following the substantial decrease in the Municipal Court's workload, however, the number of solicitors and public defenders has decreased only slightly. It is reasonable to assume that the same number of solicitors and public defenders are not needed to staff the reduced workload. Moreover, the Municipal Court now handles only municipal ordinance violations and not the preliminary hearings that often necessitated the use of a greater number of solicitors and public defenders. Therefore, both the Public Defender and Solicitor should consider a reasonable reduction of their personnel to parallel the drastic reduction in caseload.

#### 7. *Facilities*

In light of the reduction in caseload, the Municipal Court facilities appear to be underutilized. In 1990, the City of Atlanta began construction on a new Municipal courthouse located at 170 Garnett Street in downtown Atlanta. The Municipal Court moved into the new facility in September 1992. The building consists of four floors, including a basement that houses maintenance and storage. (See Blueprints of Municipal Court attached as Exhibit 31.) The public enters the building onto the first floor which houses the Court's clerk and administrative offices and pre-trial services. The first floor also houses a newly constructed courtroom and newly constructed space for the Municipal Court's warrant office and pre-trial services. The second floor houses four additional courtrooms and other administrative offices. The third floor houses the judges' chambers. There is one central library for the judges and a small conference room for all judges' use. The Municipal Court judges do not have suites of offices. Secretaries sit outside the judges' offices in cubicles. The Atlanta Detention Center is connected to the Municipal courthouse through an underground tunnel.

Because the Municipal Court's caseload has been significantly reduced since the Mayor's Order went into effect, the current courthouse space appears to be underutilized. For example, on April 9, 2003 during a tour of the facilities, Courtroom Number 1 had five cases scheduled on its 8:00 calendar (which was completed by the time the Panel arrived in the courtroom at 9:00), had no cases scheduled on its 9:30 calendar and no cases scheduled on its 11:00 calendar. (See Atlanta Municipal Court Calendar Court Docket, 4/9/03 attached as Exhibit 32.) That same day, there were no cases scheduled on the 8:00 calendar in Courtroom 2, thirteen (13) cases scheduled on the 9:30 calendar, and six (6) cases scheduled on the 11:00 calendar. (See *id.*) In Courtroom Number 3, there was one (1) case on the 8:00 calendar, fourteen (14) cases on the 9:30 calendar, and eight (8) cases on the 11:00 calendar. (See *id.*) The only "full" calendar was in Courtroom 4, the Community Court, which had seventy (70) cases. (See *id.*) These numbers are demonstrative of a substantial decrease in the Municipal Court's caseload, which has affected the size of the facilities required by the Court.

**B. The Community Court**

One of the most active divisions of the Municipal Court is the Community Court. The Community Court was established in March 2000 by Chief Judge Barbara A. Harris and Judge William F. Riley, Jr. (See CJCC 2000 Annual Report, Community Court Committee attached in pertinent part as Exhibit 33.) The Community Court handles "quality of life" crimes: prostitution, disorderly conduct, panhandling, and some misdemeanor drug offenses. (See *id.*) The Court was established by efforts of a number of public and private social service entities. The Court takes a non-traditional approach to working with offenders, using sentencing alternatives and legal sanctions to promote rehabilitation and to address the underlying causes of criminality. (See *id.*) It is committed to the dual principles of restorative justice and rehabilitation. (See *id.*) In

2000, the Community Court processed 2,352 charges against 1,918 defendants. (See *id.*)

The Court receives funding not only from the City of Atlanta for the judge and court staff, but also from various other public and private entities who are interested in the work of the Community Court. (See Community Court Overview attached as Exhibit 34.) For example, the Community Court receives funding from the Fulton County Regional Board for the Court's mental health and substance abuse initiative. (See *id.*) Additionally, some twenty-eight (28) private and non-profit agencies, many of them Regional Board and United Way affiliates, provide treatment services to the Court's defendants. (See *id.*) The Court is able to provide oversight to social programs and, through the judicial offices, to control the offenders' behavior in the community without incarceration. (See *id.*)

The Panel commends the Municipal Court for their resourcefulness in setting up this service to the community which is unique among court systems in this country. It is clear from the Panel's study of the Community Court that everyone concerned with social service areas is impressed with the Court and supports the initiative. At the two public hearings conducted by the Panel, most of the persons who appeared were there to commend the Community Court. Moreover, the Panel understands that none of the State/County courts in the Atlanta Metropolitan area provide the same type of services as the Community Court, although the State Court Solicitor's office makes a determined effort to try to cull the "quality of life" defendants out of the usual pattern of justice. Indeed, one of the Commission on Homelessness' (March 2003) main recommendations (Seven Point Plan) suggests an expansion of the Community Court from one to three full-time judges and staff. (See Seven Point Plan -- Homeless Commission Report attached as Exhibit 35.)

**C. City Court (Traffic Court)**

Based on the Panel's interviews, review of relevant documents, and personal observation, the Panel has identified the following issues that negatively impact the efficiency and effectiveness of the City Court: (1) excessive use of judges *pro hac vice* and senior judges; and (2) non-essential personnel and staff.

*1. Composition*

The Traffic Court has jurisdiction to hear and decide all state or ordinance traffic violations and all other same occurrence misdemeanor or ordinance violations. See 1996 Ga. Laws 627 § 3. The Traffic Court has misdemeanor jurisdiction and the authority to conduct jury trials. In addition, Traffic Court judges who are authorized may sit as municipal court judges. See O.C.G.A. § 15-8-6.

The Traffic Court houses four courtrooms. It is located in a 1950s-style building on Trinity Avenue which has expanded into trailers located behind the main building. (See City Court of Atlanta, Statement of Need attached as Exhibit 36.) The Solicitor's office is housed one block away. The Public Defender's office is housed at 41 Marietta Street. The City Court is slated to move into a newly constructed building on November 28, 2003.<sup>[10]</sup> The new building will be located across the street from the current Municipal Court. The Solicitor's office will be housed in the new courthouse, and there will be staging offices in the courthouse for the public defender. (See Traffic Court Blue Prints attached as Exhibit 37.) The Public Defender, however, will keep his current office as his primary office. (See *id.*) The basement of the new building will contain holding cells for inmates and a First Appearance courtroom. (See *id.*) According to current plans, this area will be connected to the Atlanta Detention Center on Garnett Street through an underground tunnel. (See *id.*)

In 2002, the Traffic Court operated at a total cost of \$ 17,121,075.00. (See Ex. 13.) That year, the Traffic Court brought in \$13,376,248.00 in fines. (See *id.*) In 2001,

the Court operated at a cost of \$15,763,474.00 and brought in \$10,942,969.00 in fines. (See *id.*) In 2000, the Court operated at a cost of \$12,392,513.00 and brought in \$14,641,113.00 in fines. (See *id.*)

## 2. *Caseload*

In connection with its review, the Panel requested that the Traffic Court provide the Panel with information regarding its caseload, among other things. (See January 10, 2003 Letter from Letitia A. McDonald to Mattie L. Thompson attached as Exhibit 38.) The caseload of the Traffic Court has remained relatively constant from 1998 through 2001. The number of citations disposed of by the Traffic Court is as follows: 1998 (248,206), 1999 (237,132), 2000 (279,378), 2001 (257,905) and 2002 (197,391). (See Comparative Report Number of Citations Disposed 1998-2003 attached as Exhibit 38A.) The number of citations disposed dropped significantly between 2001 and 2002. (See *id.*) The figures for the first three (3) months of 2003 also show a drop in the number of citations disposed. (See *id.*) The reason for this drop is not clear. The population of the City has dropped slightly over the last few years. There are suggestions that the patrolmen have made fewer arrests generally since the Mayor's directive that persons arrested on State charges be booked in the county courts. Whatever the cause, it is clear that there is a slight downward trend in the number of citations processed by the Traffic Court. Each regular judge has a somewhat lower caseload. This factor has an effect on the scheduling needs and use of *pro hac* and senior judges.

## 3. *Judicial Schedules*

The Traffic Court, like the Municipal Court, operates through a system of morning and afternoon sessions. (See Division Assignments attached as Exhibit 39.) As in the Municipal Court, judges are assigned to either a morning or an afternoon session. (See *id.*) Bailiffs and courtroom staff are also assigned in a similar manner. (See *id.*) Generally, two bailiffs assigned to the Judge's personal staff accompany the judge to

his or her morning or afternoon assignment.<sup>[11]</sup> (See List of Judges' Assistants attached as Exhibit 40.) In the event a judge is absent on a particular day, a judge sitting *pro hac vice* is called in to sit for the absent judge.

#### 4. *Use of Judges Pro Hac Vice*

Like Municipal Court judges, over the years, the Traffic Court judges' calendars have become a half day workday. The Traffic Court could not provide the Panel with hard numbers regarding actual judicial workdays, and, prior to 2003, the Traffic Court has not kept records of judicial absenteeism.<sup>[12]</sup> However, the Traffic Court did provide statistics regarding the use of senior and *pro hac* judges in the Traffic Court for 2002. In 2002, *pro hac* and senior judges sat a total of 1,257 days. (See List of Total Days Sat by Senior Judges and *Pro Hac* attached as Exhibit 41.) In the absence of contrary evidence, the Panel assumes that Traffic Court judges were absent a total of 1,257 days in 2002 (which comes to approximately 139 absences per full time judge, which means that, out of 261 possible work days, the judges worked, on average, 122 days per year). The three *pro hac* senior judges (retired judges) received a total of \$349,122.15 in compensation for their *pro hac* work in 2002, while the remaining ten regular *pro hac* judges were paid a total of approximately \$180,000.00 for their service. (See Ex. 9.) Thus, non-fulltime judges were paid a total of \$529,122 in 2002, in addition to the salaries paid to the full time judges who sit on the Traffic Court. The Panel also notes that the salaries paid to the senior judges are **on top of** the retirements they receive from the City.

The Chief Judge indicated in initial interviews that he has asked the full-time Traffic Court judges to sit for each other so that the Traffic Court can reduce its dependence on *pro hac* judges. In follow-up interviews with the Chief Judge, it was noted that some full time judges had not been totally cooperative with his request. Based on the Panel's interviews of the Traffic Court judges and attorneys who practice in

the Traffic Court, the Panel finds that Traffic Court judges do not have the same work issues that face State Court and Superior Court judges who must write sometimes lengthy orders and decisions as a regular part of their job. For the most part, the Traffic Court judges do not have to create written work product that requires significant chambers time.

#### 5. *Use of Court Personnel*

Like the Municipal Court, the Traffic Court has a large staff. For example, among the one hundred sixty (160) non-judicial, non-attorney staff, there are twelve (12) court clerks, twenty-one (21) bailiffs, and twenty-seven (27) office assistants, administrative assistants and/or legal secretaries. (See Ex. 11.) Each of the nine judges has a personal staff of four people, generally a clerk, two bailiffs and an administrative assistant. (See Ex. 40.)

In 2000, the Traffic Court initiated a review of its own operations. The review was conducted by the National Center for State Courts ("NCSC"). The NCSC issued a detailed study ("NCSC Study") of the operations of the Traffic Court. (See NCSC Study attached as Exhibit 42.) The Traffic Court has informed the Panel that it has implemented many of the recommendations proposed by the 2000 NCSC Study. However, some of the NCSC recommendations have not been implemented. These recommendations are discussed below.

First, the National Center for State Courts recommended that the Traffic Court reduce the number of courtroom staff, citing a 145% increase in the number of staff employed by the Traffic Court since 1990 and a parallel decrease in the number of cases handled by the court over the same period. (See Traffic Court Summary of Implemented, In Progress, Under Study, and Deferred Recommendations No. 10 and 12 ("Recommendations") attached as Exhibit 44.) Specifically, the Study recommended that the courtroom staff -- at that time thirty-six (36) (21 bailiffs and 15 clerks) -- be

reduced by fifteen (15) positions. (Ex. 42.) Despite this recommendation, there are still twenty-one (21) bailiffs and twelve (12) clerks in the Traffic Court. (See List of Judges' Assistants attached as Exhibit 40.) The NCSC Study also noted that in eight out of nine jurisdictions studied, there is only one bailiff per judge or per courtroom. (Ex. 42 at 13-14.) The NCSC study recommended a maximum of one clerk and two bailiffs per courtroom (not per judge). (*Id.*) In addition, the Study recommended that two judges share a secretary and supervisory secretarial positions be eliminated. (Ex. 42, Recommendation 12.) Finally, the Study made the seemingly unremarkable recommendation that "Courtroom staff should not be allowed to work part time days and be paid for full time work." (Ex. 42, Recommendation 20.) These recommendations have been on "deferred" status for three years and should not be deferred any longer.

Moreover, it appears that the new chambers are designed in the facility under construction in a manner that belies any serious intention of implementing these recommendations. Each chamber has its own area for a secretary, a calendar clerk, a law clerk, and two bailiffs. (See Ex. 37.) The building's structure does not facilitate the sharing of secretaries or other personnel, and the building and chambers layout firmly cements the practice of assigning bailiffs to judges rather than to courtrooms. Further, the individual judges do not currently have law clerks or court reporters on their personal staffs. (See Ex. 40.) Nonetheless, the space is provided in each judges' new chambers for both a law clerk and a court reporter.<sup>[13]</sup> (See Ex. 37.) The judges indicated that they arrived at this configuration after consulting with companies that specialize in designing courthouses. (See Responses to Interrogatories attached in pertinent part as Exhibit 45.) The set-up is apparently a typical one for courts with general jurisdiction. (See *id.*) The configuration does not reflect the daily activities of the Traffic Court judges who do not routinely hold jury trials (and thus employ a court reporter) or write legal opinions (and thus employ a law clerk). For example, out of 197,391 dispositions in 2002, only



230 resulted in appeals -- or one-half of one percent of the total dispositions. (*Compare* 2002 Monthly Total Dispositions attached as Exhibit 46 *with* Total Number of Appeals attached as Exhibit 47.)

Additionally, during the first three months of 2003 the number of new cases processed by the Traffic Court has slightly decreased. For instance in 2002, in January 17,816 citations were disposed, February 17,625, and March 17,645, as compared to 2003, where January saw 15,684 citations disposed, February saw 14,479, and March 9,958. (See Ex. 38.) The Traffic Court could not tell the Panel how many of the dispositions were the result of bench or jury trials. In the absence of empirical evidence, the Panel must assume that the numbers do not justify the dedication of space to currently non-existent positions.

#### 6. *Solicitors and Public Defenders*

Solicitors and Public Defenders are assigned in the same manner as other courtroom staff. Two solicitors, two warrant officers and one investigator are assigned to each courtroom for the morning session. A new group of solicitors, warrant officers, and investigators takes the afternoon session. Similarly, one public defender is also assigned to each courtroom for the morning and afternoon sessions. (See Ex. 10.)

According to the solicitors and public defenders interviewed, both offices believe that they are insufficiently staffed. (See *id.*) The Solicitor's Office believes that it could handle a greater number and variety of cases with additional attorneys. The U.S. Supreme Court's recent decisions have enlarged the population of defendants who require counsel. See *Alabama v. Shelton*, 122 S. Ct. 1764 (2002) (holding that an indigent defendant is entitled to counsel where faced with a sentence that may deprive the defendant of personal liberty). The Public Defender's office believes that it is compromising the representation of indigent defendants due to its heavy caseload. (See Ex. 10.) Each public defender handles approximately 750 cases a year.

According to the NCSC Study of the Traffic Court (2000), the one area in the Traffic Court that is understaffed is the Solicitor's and Public Defender's offices. Specifically, the NCSC Study found that "it appears that both the [Solicitor General's and Public Defender's] offices may be understaffed currently." (NCSC Study at 188 attached as Exhibit 42.) While statistically these offices were understaffed in 2000, both the Solicitor and Public Defender now appear to be handling more reasonable caseloads. These officers -- like the Court -- should reassess their respective needs in view of fiscal efficiency.

The Panel notes that the Public Defender's office could use additional assistance -- there are only eight (8) non-lawyers who work in the Public Defender's office -- 6 warrant officers, a receptionist and an office manager. (See Ex. 10.) There is no secretary or administrative assistant in the Public Defender's office. (See *id.*) Some personnel might be shifted from the Court to this office.<sup>[14]</sup>

## *7. Facilities*

As noted above, the Traffic Court is currently housed in a 1950s cinder block building located on the edge of downtown. The Solicitor is housed a block away from the City Court in a cinder block, windowless building. The Public Defender is housed at 41 Marietta Street, Suite 1200.

For the past four years, the new Traffic Court building has been a source of significant litigation between the City of Atlanta and the Traffic Court judges. In 1996, the General Assembly provided that:

[e]xcept as [otherwise provided], all moneys arising from fines or forfeitures imposed and collected in such courts shall be paid into the treasury of the respective cities and shall be used first to cover the housing, facilities, equipment, personnel and personnel training, and other costs necessary for the administration of such courts.

1996 Ga. Laws 627, § 26. In 1997, the Atlanta City Council adopted Ordinance No. 97-0-1689 which authorized the City to negotiate for the purchase of a piece of property on

which to build a new Traffic Court building. See Order Granting Plaintiff's Motion for Summary Judgment and Denying Defendant's Motion to Dismiss, Civil Action File No. 2000CV24140 (Fulton County Sup. Ct. March 28, 2001) attached as Exhibit 43.) The City Council subsequently passed Ordinance Number 97-0-1690, authorizing the City to "establish a restricted account in the City's General Ledger Fund in the name of the City Court of Atlanta Building Fund." *Id.* The preamble to the Ordinance notes that "the City of Atlanta has long recognized the critical and urgent need of the City Court of Atlanta for more space" and that "the City has determined that it is more cost effective and consistence (sic) with the needs of the City Court of Atlanta to obtain a new facility to house the City Court of Atlanta." *Id.*

Nevertheless, the City, under the previous administration, refused to move forward on the City Court building. See *id.* On February 7, 2000, the Atlanta City Council adopted Ordinance Number 99-0-2079, which authorized the City to use funds from the City Court's restricted building account -- established in Ordinance Number 97-0-1690 -- for police raises, rather than for the new Traffic Court facility. See *id.* The Traffic Court judges filed suit against the City seeking to require the City to move forward with the construction of the new Traffic Court building and to enjoin the City from using the Traffic Court building fund for anything other than the construction of the new City Court facilities. See *id.*

The Superior Court of Fulton County, Judge Rowland W. Barnes, granted the Traffic Court judges' request for a writ of mandamus directing the City to finalize the plans for the construction of the new Traffic Court building and for a declaratory judgment prohibiting the City from using the Traffic Court funds for anything other than the construction of the new Traffic Court building. See *id.*

Subsequent to the Court's decision, on July 16, 2001, the City Council unanimously adopted a resolution authorizing the expenditure of \$55,195,000.00 to

construct a new Traffic Court building to be funded exclusively from the “fines and forfeitures levied by the City Court of Atlanta.” (ACCF Master Agreement Dated 11/26/02 attached in pertinent part as Exhibit 48.) The Council specified that “no cost to the Project shall be charged to or paid from the general fund of the City.” (See *id.*)

The Traffic Court is slated to be open for business the first week in December 2003. The new Traffic Court building is 206,000 gross square feet. (See City Court of Atlanta Blue Prints 37.) When completed, the building will have six floors, including a basement floor which will house a central holding and incarceration center, first appearance courtroom, mailroom, central file storage, maintenance space, and some administrative space. (See *id.*) This area will be connected to the Atlanta Detention Center -- which is part of the Municipal Court complex -- by an underground tunnel.

The third floor will house the Solicitor’s Office, which will have thirty-six (36) solicitor offices, as well as office space for non-lawyer staff. (See *id.*) The third floor also will house a “Ceremonial Courtroom” which will have high-tech capabilities. (See *id.*) The Chief Judge will have chambers adjacent to the Ceremonial Court. The Chambers will contain offices for a law clerk, bailiffs, calendar clerk, court reporter and secretary. (See *id.*) The third floor will house a conference room for the judges. In addition, the third floor will contain office space for two senior judges, three *pro-hacs* and two bailiffs. This area will also contain build out space for a courtroom. Finally, the third floor will house a small child’s waiting area. (See *id.*)

The fourth floor will house four courtrooms and four judges’ chambers, identical to the Chief Judge’s chambers on the third floor. (See *id.*) The fifth floor will not be built out. The sixth floor will be identical to the fourth floor. (See *id.*) It will contain four courtrooms and four judges’ chambers. The courthouse has the potential to house five additional courtrooms and five additional chambers, if the *pro hac* office spaces are not built.

All of the floors will be connected by three elevator systems -- one for the public, one for the judges, and one for prisoner transport. There will be a parking area under the building for the judges and their staff. There will not be a public parking area. Maintenance on the new building is projected to cost \$1,021,808.00 annually. (See Responses to Interrogatories from Young and Giornelli attached in pertinent part as Exhibit 49.)

8. *Lack of Collegiality*

Finally, through the course of its investigation, the Panel recognizes an additional area of concern relating to the lack of collegiality among the Traffic Court judges and among some City authorities. In this regard, the Panel notes that the Chief Judge of the Traffic Court was recently sued by the senior judges of the Traffic Court because the Chief Judge had begun bypassing the senior judges when judges *pro hac vice* were needed, in an effort to reduce costs to the City.

D. **Complaint Room**

In addition to its review of the Courts, the Panel has reviewed the operation of the so-called Complaint Room, as it is integrally intertwined with the operation of the Courts. The term "Complaint Room" describes a method and a place to expedite and cull new criminal cases. It is a prosecutorial front-end case processing system emphasizing early evaluation, immediate charging and an opportunity for the rapid disposition of felony criminal cases. (See A Report Assessing the Initial Import of the Pilot Phase of the Fulton County Criminal Justice System's front-End Screening Procedure Commonly Known as the Complaint Room ("Complaint Room Report") attached as Exhibit 50.) It is located at 236 Forsyth Street. (See *id.*) It is staffed by prosecutors and administrative personnel who receive, evaluate, screen, and process criminal cases initiated by police officers at the time of arrest. (See *id.*) The Complaint Room is the communication point between the officer in the field and an assistant district

attorney who is immediately available by phone, facsimile and/or video conferencing to make the necessary initial determinations about case strength, additional information needed and the crimes to be charged.

1. *Municipal Court*

After inter-agency and cross-jurisdictional collaboration, in June, 2001, the pilot phase of the Complaint Room began. At the time that the pilot project began, the District Attorney processed only Atlanta Police Department felony drug cases through the Complaint Room. After the Complaint Room completed its initial charging decision and the police officer had completed his report, the case went to the Municipal Court of the City of Atlanta for a first appearance (within 48 hours), a preliminary hearing, if necessary, and a bind-over to the Superior Court of Fulton County. During this initial phase of the Complaint Room project, it was determined that the time necessary for the police officer to complete the arrest procedure was significantly shortened, ultimately giving the police officer more operational time in the field. The prosecutors and administrative staff coordinated their work with the Atlanta Pre-Trial Detention Center, pre-trial services and the probation department.

After January 6, 2003, Atlanta police officers were ordered to take **all** arrestees committing felonies or misdemeanors to the Fulton County Jail for intake processing and to utilize the Complaint Room. The Municipal Court is therefore completely bypassed by the new Complaint Room procedures.

The methodology of the Complaint Room includes:

1. A first appearance hearing usually held within 24 hours (no more than 48 hours) of arrest at which time the accused is informed of the charges and formally appointed counsel. The defendant is given an opportunity to enter a guilty plea at this time. If no guilty plea is entered, the Court would consider issues of bond and probation revocation if applicable.
2. Within 5 working days of the first appearance there is an all-purpose hearing where the defendant may have a preliminary hearing, plead guilty or have a probation revocation hearing if applicable. At the conclusion of

this hearing, the case is bound-over to the Superior Court or, if probable cause is not found, dismissed.

3. Within 7 additional working days of the first all-purpose hearing a second all-purpose hearing is held at which time the Court would attempt to dispose of cases not yet bound-over or otherwise resolved.

(See *id.* at 4.)

This new system of court hearings is a substantial departure from the manner in which the Municipal Court had processed criminal cases in the past, and there was significant judicial resistance to the Complaint Room. There has been criticism from the Municipal Court and some police officers because the Complaint Room places strict requirements on the field officers to complete their arrest and reporting procedures immediately rather than having the entire process rest in the jurisdiction of the Municipal Court.

Through its investigation, the Panel has learned that, in some instances, where the crime committed was a less serious felony or a misdemeanor, the officer would take the arrestee (and sometimes the victim) to the zone headquarters where he or she would then communicate with the Complaint Room. In other cases, however, officers would take the accused directly to the Fulton County Jail intake facility for processing and then return to the zone headquarters and make his report to the Complaint Room. There appears to be a lack of uniformity and guidance to officers in selecting which process to undertake at the time of the arrest. A significant issue is the lack of security in the zone headquarters when the arrestee is taken to headquarters for processing. Additionally, it appears that certain officers who did not favor the Complaint Room methodology made independent determinations not to charge the arrestee at all with any offense or to charge only an ordinance violation which would take the arrestee to the Atlanta Detention Center for booking and then to Municipal Court. This type of disorganization was predictable because the Complaint Room methodology was

replacing a well-entrenched historical method of charging arrestees. Adding to the organizational problems was the geographic disparity between the location of the Atlanta Detention Center and the Fulton County Jail on Rice Street. This encouraged officers to make an arrest for an ordinance violation instead of a misdemeanor or felony. The Police Department has issued new standard operating procedures to stop this abuse. There are no statistics available to validate whether officers on the streets are obeying the Department's orders. While the Police Department hierarchy has been cooperative, there is still resistance from the average patrolman to this change.<sup>[15]</sup>

The Complaint Room also handles officer notification of future hearing dates by faxing such notices directly to the officer at the conclusion of his input to the Complaint Room. There has been further criticism that the Complaint Room has not adequately notified the officers of their court dates, causing the officers to fail to appear.

## *2. Traffic Court*

The Traffic Court also processes certain Atlanta Police Department felony and misdemeanor cases, but to a much lesser extent than the Municipal Court. The Solicitor of the Traffic Court made a decision to utilize, and continues to use, the Complaint Room to screen such cases pending in the Traffic Court so that prosecutorial decisions are made by his office rather than by Traffic Court judges.

## *3. Contact with Jail, Intake Facilities and Police Departments*

The Panel's interview with the Sheriff of Fulton County revealed that since January 6, 2003, the Fulton County jail is not overcrowded and the intake of felony cases has not significantly decreased. However, the number of misdemeanor cases has dropped substantially, and it appears that some of these cases may be charged as ordinance violations to be processed by the Municipal Court. The Panel has conducted an on-site review and inspection of the Fulton County intake facility and has interviewed watch commanders and other staff. That facility appears to be functioning at an efficient



level and is not overcrowded. The State Court of Fulton County has aided the processing of the intake arrestees by providing Magistrates at the jail on a 24-hour basis. The Magistrates are providing first appearances and the setting of bonds in a timely manner. They are also signing arrest warrants as necessary. There appears to be satisfactory coordination between the Sheriff's Office, the District Attorney's Office and the Magistrates.<sup>[16]</sup>

The Panel also conducted interviews with the Chief of Police and several Deputy Chiefs concerning the functioning of the Complaint Room system. Again, a major issue seems to be the Complaint Room's inability to properly notify police officers of their court appearance dates. One senior officer complained that large numbers of cases were being dismissed at the All-Purpose Hearing. However, further interviews determined this to be a police department problem rather than a Complaint Room problem. The All Purpose Magistrate suggested that there should be a better liaison system created so that the Complaint Room could be staffed with a police department officer who would specifically coordinate and ensure that officers were given proper notice which did not interfere with their days off or second job schedules. Of course, the police department must also have a liaison at its headquarters to coordinate with the liaison officer working from the Complaint Room.

Other specific statistics emerging from the initial weeks of the Complaint Room show that the process accelerates the final disposition of cases. For example, in 1997 the District Attorney's Office had made an assessment of the time between arrest and formal charging. Statistics show that if the defendant was in jail, 111 days elapsed between arrest and formal charging. If the defendant was on bond, the time from arrest to formal charging was 265 days. Although specific statistics were not available, the District Attorney estimated that if a defendant was on bond the time between formal charging and final disposition was about 192 days. Therefore, total case processing

times from arrest to final disposition was 450 days if the defendant was on bond. Cases processed through the Complaint Room appear to move much more quickly to resolution.

## **V. RECOMMENDATIONS**

In light of the foregoing findings, the Panel recommends (1) specific changes be made in the operations of both the Municipal Court and the Traffic Court; (2) a systemic change be effectuated through a merger of the operations of the Municipal Court and the Traffic Court to achieve economies of scale and to eliminate duplication of services and operations; and (3) if the City and the Courts determine to act on the recommendations of this Report, the City and the Courts should call for fiscal and performance audits of the Courts to assist them in implementing these recommendations.

### **A. Specific Recommendations**

#### **1. *Judicial Scheduling (Municipal and Traffic Court)***

In dealing with the issue of efficiency of the judicial administration of both Courts, members of the Panel have reviewed various treatises on judicial administration. More significantly, the members of the Panel have practiced law in virtually every type of court in both this state (including the courts under study), and numerous other states and federal jurisdictions in this country. The Panel recognizes that it is difficult to establish standards for measuring a judge's schedule, caseload, or the number of hours a judge should be in court. A "time and motion study" cannot be used to determine whether judges or personnel are performing their tasks efficiently. Given two judges of equal talent and respect, one may be able to handle more work than the other. The same applies to personnel. Recognizing the variance of these factors, there are still reference points to approximate ranges of reasonable standards of work that might be expected from any member of the judiciary and staff, including the Municipal and Traffic judges and their staffs.

The judges of the Municipal and Traffic Courts are paid equal to or better than trial judges of general jurisdiction courts throughout this state and the country. (See Ex. 42.) Their work is different from state or superior court judges because the latter judges must perform substantial amounts of chambers work outside the courtroom, e.g., reviewing motions, preparing orders, and conducting trials which last weeks and sometimes months. On the other hand, Municipal and Traffic court judges have negligible chambers work but handle numerous cases every day.

Over the years, the regular judges in the Municipal and Traffic Courts have become used to half-days of trial work -- that is, handling a morning calendar or an afternoon calendar, but not both. In this regard, it is notable that two non-regular senior judges on the Traffic Court must have spent full days in court virtually five days a week in order to have received the extra compensation which they received in 2002. The senior judges are certainly deemed competent by their peers and do not appear to be overworked. Using the senior judges' schedules as one reference point, the Panel concludes that the regular judges of both Courts should reconsider their caseloads in order to absorb the work that is being passed off to *pro hac* and senior judges. While one would not posit that a Municipal or Traffic judge stay on the bench all day for five days, common sense and general experience of courts would suggest that a regular, well-paid, full-time judge could operate more than the one-half day five days a week. If the regular judges make reasonable adjustments in their calendars, they can absorb all (or most of) the work that is presently being handled by non-regular judges, except under extraordinary circumstances. An important part of proper adjusting of judges' schedules is proper record keeping regarding caseloads, schedules, and absences. This is an essential part of accountability. Further, the judges should have to record, in writing, the reason for calling a *pro hac*. The task of summoning a *pro hac* should be handled through the Clerk.

## 2. *Municipal Court*

The Panel believes that several immediate steps should be taken to improve the operations of the Municipal Court. Specifically, the Municipal Court should conduct an immediate internal review of the regular judges' schedules with a focus on expanding the current half-day schedules of the regular judges.

As noted above, the Mayor's transfer of state cases has drastically reduced the caseload of the Municipal Court. In light of the reduction in caseload, the Municipal Court should discontinue the use of *pro hac* judges except in extraordinary situations; the reduction in caseload should allow the nine regular judges to handle incoming cases without the need for *pro hacs*. The judges' schedules should be adjusted so that the regular full time judges can fill in for their colleagues' vacation and sick time.

To the extent the Municipal Court judges' schedules remain underutilized, the Municipal Court judges should be offered to the Traffic Court or to the State Court to act as *pro hacs* in those courts. Indeed, in preparation for the January 6<sup>th</sup> change, the Municipal Court judges were offered to the State Court on the basis of need. For various reasons they were not utilized by the State Court. However, if the caseload needs of the State Court increase, this will provide an opportunity for those Municipal Court judges who are currently underutilized to perform these needed functions.

In addition, the number and positions of Court staff should be reviewed and streamlined where possible. For example, the individuals currently assigned to judges should be re-assigned to courtrooms and should work full days, as opposed to the current half-days. This should facilitate greater efficiency. In this regard, the number of bailiffs should be reduced to one per courtroom.

The Panel has identified a need for improved record-keeping in the Court. As noted above, the Panel was not able to obtain some information from the Municipal Court (such as the number of felonies and misdemeanors handled in a given year) which

the Panel believes should have been recorded and readily available. Accordingly, the Panel recommends that the Municipal Court, with the assistance of the National Center of State Courts or another professional court administrator, review its record-keeping systems and ensure that all necessary information is being recorded and is publicly accessible. The Panel believes that the efficiency of the Municipal Court will improve greatly if more of the Court's operations are fully computerized. Currently, bailiffs and clerks spend a large amount of time sorting citations by hand and inputting data into the computer. The Panel understands that much of this same information is already in the Corrections and Atlanta Police Department computers. Accordingly, the Panel recommends that computer and record-keeping systems be made compatible across the Municipal and Traffic Courts and that these systems be made compatible with the systems utilized by the Atlanta Police Department and the Atlanta Department of Corrections. The information should be shared so that information is only pulled one time, not three. This would avoid the duplication in record-keeping and would give the Courts access to all pertinent records and information. A coordinated computer and record-keeping system also would allow administrators to keep more accurate records and to get better control of both the judges' schedules and their caseloads. There would be efficiency within the Courts generally, and improved accountability to the City and to the public at large, specifically, from better record-keeping.

The Panel recommends that the Solicitor and the Public Defender internally review their personnel and case loads in light of the reduction in caseload. Based on caseload determinations, these offices may need to reduce the number of lawyers and staff currently working in these offices.

The Panel understands that the Municipal Court is moving forward with creating two more Community Courts (two existing judges and their staff). With the substantial reduction in its caseload, the Panel observes that the Municipal Court should not have to

add additional judges or staff to expand the number of Community Courts that handle quality of life crimes committed in Atlanta.

At the same time, however, the type of social services that are coordinated by the Community Court are regional or metropolitan. The Commission on Homelessness Report and other studies show that a substantial portion of the homeless population have health problems -- mental and physical including drug and alcohol abuse. These problems require services that are typically funded by county/state/federal governmental entities, not municipal entities. For example, in the Commission on Homelessness letter to Mayor Franklin of March 24, 2003, it states as follows:

We recommend the creation of a Regional Authority. We strongly believe that the most effective solution to homelessness in the metropolitan area will come from the coordination, planning and resources that can be provided by a Regional Authority, and we are volunteering to take the lead in coordinating the establishment of such an authority. The concept of regional wide approach was strongly endorsed four years ago in a report prepared by the Atlanta Regional Commission after a year-long study on homelessness. Also, the Regional Authority approach in Savannah/Chatham County has resulted in a decrease in the homelessness by over forty-five percent.

(March 24, 2003 Letter to Mayor Shirley Franklin from Horace H. Sibley, attached as Exhibit 57.)

In a time when each political entity is struggling for sufficient funds to provide basic services to its constituencies, it is necessary that funding for coordinated social services (as are being discussed here) be shared by those political entities that are receiving the benefit of the services. Accordingly, the Panel recommends that the City, the counties (Fulton and DeKalb) and the Municipal Court engage in a dialogue regarding the best entity to facilitate these services. In addition, the Panel urges the surrounding political entities to consider integration of similar Community Court concepts.

Finally, the Municipal Court has stated that it has contacted the National Center for State Courts (“NCSC”) and has requested the assistance of the NCSC in conducting an internal review of the Municipal Court. The Panel appreciates the Municipal Court’s initiative and recommends that the Court continue its engagement of the NCSC to review the operations of the Municipal Court.

### 3. *Traffic Court*

As with the Municipal Court, the Panel finds that several immediate steps must be taken in order to respond to the administrative and fiscal inefficiencies previously identified. First, the Panel recommends that the Traffic Court, like the Municipal Court, conduct an immediate internal review of the regular judges’ schedules. In this regard, the Court should consider a reasonable expansion of the regular judges’ workload from the present one-half day schedule (five-days a week), which has developed over the years, to a full-day schedule.

With respect to the use of *pro hac* and senior judges and in light of the fact that the Traffic Court judges generally only work half-days, the Panel recommends that the Traffic Court only resort to the use of *pro hac* judges in extraordinary situations.<sup>[17]</sup> The regular judges should sit for each other, where possible. And, to the extent it is necessary to call a *pro hac*, the Traffic Court should first utilize the Municipal Court judges who are currently underutilized.<sup>[18]</sup>

The Traffic Court should internally review the staffing needs of the Court and eliminate non-essential personnel. In this regard, the Traffic Court should follow the recommendations previously made by the National Center for State Courts regarding elimination of duplication of personnel. For example, the Court should reduce the number of bailiffs from two per judge to one per courtroom so that each bailiff has a full day’s work in the courtroom, in accordance with the NCSC’s 2000 Study. The Traffic

Court should immediately adopt the NCSC's recommendation that employees work full days.

The Panel recommends that the Traffic Court immediately establish systems of accountability supported by proper record-keeping. The record keeping of the caseloads and all other information should be computerized in order to maintain public accountability. The Panel recommends that the computer and record-keeping system of the Traffic Court be made compatible with that of the Municipal Court system. Such a system will be more cost effective and will facilitate other Panel recommendations.

The Solicitor's office should continue to work closely with the Atlanta Police Department to ensure that police time in court is reduced to a bare minimum. To this end, the Traffic Court, Solicitor, Public Defender and the Police Department need to coordinate their systems and schedules. Specifically, the Solicitor should focus on the officer problems with the Complaint Room. The Panel believes the complaints raised by the Police Department can be solved through a good working relationship with the Court and the Solicitor and Public Defender offices.

The Panel recommends that the Traffic Court consider legislation that decriminalizes (or set standards regarding fines for) certain minor offenses which would allow the offenses to be heard by a hearing officer. There is currently pending legislation to allow traffic violations bureaus to handle and dispose of traffic violation which will carry a penalty of "a fine not to exceed \$1,000.00, imprisonment for a period not to exceed 180 days, or both," and thereby eliminates the right to a jury trial. (See House Bill 683 attached as Exhibit 52.) The Court should establish unified fines for minor traffic violations. Additionally, allowing these complaints (e.g. minor speed limit violations, driving without license, driving with expired licenses and so forth) to be handled informally by hearing officers, is advisable. This would reduce a number of the offenses which require the attention of a regular sitting judge.



#### 4. *Complaint Room*

The Complaint Room cannot operate effectively in a vacuum. It must receive the cooperation of other prosecuting agencies, the police department, the probation department, pre-trial services, Fulton County Sheriff's Department, Public Defenders, Superior Court Administrator, Superior Court Clerk, Superior Court and State Court Judges and the State Court Magistrates.

While it appears that this unification effort is improving (as is evidenced by regular weekly meetings held by most of the core police, courts and prosecutorial bodies), the process of managing this large undertaking is understandably fraught with administrative problems which hopefully will dissipate in time. On balance, the Complaint Room appears to be accomplishing its goal and is a positive factor in the fair administration of justice in the City and Fulton County.

#### **B. Recommendation for Systemic Change in the Operations of the Courts**

In addition to the specific recommendations outlined above, the Panel recommends a merger of the operations of the Municipal and Traffic Courts. The merger, while maintaining the functional purpose of the Municipal and Traffic courts, would effectively combine the Courts and their personnel. The Panel proposes that judges and staff, public defenders, solicitors, and the physical offices of both the Traffic and Municipal courts be housed in the new City Court of Atlanta building. Under this plan, the Municipal Court, in essence, will be operated by the Traffic Court.

The Panel believes that this proposal satisfies the goals set out in Order 2002-10 of maximizing "efficiency, avoid[ing] duplication, focus[ing] on essential services and cost savings to the taxpayers." Once implemented, the Panel's recommendation should allow for better utilization of existing judicial resources, largely eliminate the need for judges *pro hac vice*, streamline court staff, reduce duplicative court services, and best

utilize the City's existing and future facilities. The merger of operations will render the Municipal Court a *de facto* division of the Traffic Court; however, it will not eliminate the Municipal Court, and the Panel envisions a court that will largely be made up of the same people who currently staff it. The merger of the operations of the Courts can be accomplished through the seven step process set out in detail below:

1. *Step 1: The City Should Resolve to Merge the Operations of the Municipal and Traffic Courts.*

The first step in implementing the Panel's recommendation to merge the operations of the Municipal and Traffic courts requires the City to resolve to make the change and implement the steps necessary to carry it out. The City should allow the Traffic Court to assume responsibility for the operations of the Municipal Court.

2. *Step 2: The City Should Commission a Performance Audit of the Existing Courts to Determine the Staffing and Facilities Needs of the Combined Operations of the Courts.*

In order to achieve the efficiencies that the Panel believes this proposal will bring, the City must commission an extensive performance audit of the Courts to determine the staffing and operational needs of a combined court operation. The Mayor has the authority to commission such a study pursuant to Sections 3-104 and 2-182(4) of the City Charter.

Specifically, an audit should be conducted to determine the number of personnel needed to efficiently and effectively operate the combined court. The audit should be conducted with a focus on the goals of efficiency, avoidance of duplication of services and emphasis on providing essential services and cost-savings to the citizens of Atlanta.

While the proposed audit is an instrumental part of the Panel's proposal, implementation of the audit results is even more critical. Accordingly, the Panel strongly encourages the City and the Courts to work together to implement the recommendations of the performance audit.

3. Step 3: The Mayor Should Appoint the Existing Municipal Court Judges as Interim Traffic Court Judges and Authorize the Traffic Court Judges to Preside in the Municipal Court.

One of the guiding purposes behind the Panel's recommendations is a desire to address the current inefficient use of judicial resources. The significant reduction in caseload in the Municipal Court appears to have left some of the Municipal Court judges underutilized. And, as noted above, there has been excessive use of *pro hac vice* judges in the Traffic Court. Accordingly, the Panel proposes that the Mayor appoint the existing Municipal Court judges as interim Traffic Court judges which will allow the Municipal Court judges to preside on the Traffic Court, as needed. Additionally, the Panel proposes that the City's governing authority authorize the existing Traffic Court judges to preside in the Municipal Court. These changes should effectively eliminate the use of judges *pro hac vice* in both the Municipal and Traffic courts.

Under Georgia law, the Mayor may appoint judges to the Traffic Court pursuant to sections 4 and 5 of the Traffic Court Act. See 1996 Ga. Laws 627, §§ 4, 5. However, the Mayor's appointment power is limited. Section 5 provides: "the mayor shall . . . appoint[] one of three qualified persons nominated by a judicial nominating commission constituted for the purpose of nominating city court judges in the territorial jurisdiction." 1996 Ga. Laws 627, § 5. Accordingly, the Mayor must select Traffic Court judges from a pool of three candidates recommended by the judicial nominating committee. Arguably, the current Municipal Court judges can be appointed as Traffic Court judges without the need for going through the nomination process because, as sitting judges, they have already been selected by the judicial nominating committee. See City of Atlanta Charter §§ 4-104 and 4-106 (providing the nomination process for Municipal Court judges).

However, the City may also supplement section 5 of the Traffic Court Act to provide for the appointment (by the Mayor alone) of *interim* Traffic Court judges who

may serve on the Traffic Court for a term of less than four years as the laws governing the Traffic Court are general laws of local application. However, the City has regularly supplemented the Traffic Court Act through the passage of local ordinances. Thus, it is arguable that the Mayor could affect the appointment of the interim Traffic Court judges by working with the City Council to pass an ordinance that would provide the Mayor with the discretion to appoint interim Traffic Court judges, as this change does not conflict with the applicable general law.<sup>[19]</sup>

In addition, the Panel recommends that the Mayor authorize the existing Traffic Court judges to preside in the Municipal Court. Under O.C.G.A. § 15-8-6, Traffic Court judges may preside in municipal courts when authorized to do so by the governing authority of the municipality. The law provides:

[a]ny judge of any city court or like court may, when authorized to do so by the governing authorities of any city having a population of more than 350,000 according to the United States decennial census of 1950 or any future census, preside in the municipal court by whatever name called, of such city. When so presiding, such judge shall have full power and authority in all matters pending in the court, including the trial of all offenses against the ordinances of the city.

O.C.G.A. § 15-8-6.

Accordingly, the Panel recommends that the City's governing authority -- the City Council -- authorize the existing Traffic Court judges to preside in the Municipal Court. As with the Municipal Court judges, allowing Traffic Court judges to preside in the Municipal Court will effectively eliminate the use of judges *pro hac vice* in the Municipal Court.

The Traffic Court judges, including the interim Traffic Court judges, shall elect a Chief Judge of the Traffic Court, by majority vote.<sup>[20]</sup> The Chief Judge of the Traffic Court will be responsible for the general supervision of both the Traffic Court and the Municipal Court, to the extent this requires supervision over the employees, classified as Traffic

Court employees, who operate the Municipal Court. The Chief Judge also will be responsible for assigning judges to preside in the Traffic Court on an as-needed basis.

In light of the process articulated above for appointing a Chief Judge of the Traffic Court, the process for electing a Chief Judge of the Municipal Court should be amended. The City Charter should be amended to provide that the Chief Judge of the Municipal Court should be the same person as the Chief Judge of the Traffic Court, effectively bringing both Courts' operations under one leader who will wear two hats. The Chief Judge of the Municipal Court (like the Chief Judge of the Traffic Court) will be responsible for judicial assignments in the Municipal Court.

The Panel believes that by allowing the existing Municipal and Traffic Court judges to preside in both courts and giving one person -- the Chief Judge of the Traffic Court -- superintendence over court administration and the authority to assign judges to the various courts, many of the Courts' identified inefficiencies can be remedied. First, effectively consolidating all of the judges under a single Chief Judge increases judicial accountability. Second, by authorizing Traffic Court judges to preside in the Municipal Court or the Traffic Court, the Chief Judge can orchestrate bench assignments such that existing Traffic Court judges can sit for absentee Municipal Court judges and *vice versa*. Moreover, to the extent there is a greater need for judges in one area or another, judges can be reassigned. Thus, the proposal should substantially, if not entirely, eliminate the need for employing judges *pro hac vice* and would reallocate judicial resources to the areas of most need.

4. Step 4: The Courts Should Implement the Audit's  
*Recommendations by Retaining the Personnel Necessary to Run*  
*the Combined Operations of the Courts.*

The Panel proposes that all offices and operations of the Municipal and the Traffic Courts be consolidated, be operated by the Traffic Court, and be staffed by the

former Municipal and Traffic Court employees (who will be reclassified as Traffic Court employees).

a. Personnel

i. Clerks

Under the proposal, the Municipal and City Court judges, in consultation with each other, will appoint a Clerk of the Court who will have responsibility for overseeing and managing the combined Traffic and Municipal courts. The Traffic Court Clerk will be responsible for managing two deputy clerks and also will oversee the clerical staff of the combined operations, as well as the bailiffs. The Traffic Court Clerk's duties shall continue to be enumerated in Section 14 of the Traffic Court Act, but the Act may require amendment to the extent the City desires that the general law accurately reflect the Clerk's increased management responsibilities.<sup>[21]</sup> Additionally, the Traffic Court Clerk will continue to serve at the pleasure of the Traffic Court judges (which will include both the interim Traffic Court judges and the existing Traffic Court judges).<sup>[22]</sup> Currently, the Clerk is appointed by the judges of the Traffic Court in conference, and thus, no additional legislative changes are required to appoint the Clerk of the newly constituted Traffic Court, as all of the judges will be denominated Traffic Court judges, either full-time or interim.<sup>[23]</sup>

Once the Traffic Court judges are authorized to preside in the Municipal Court, and following an independent audit, deputy clerks for both operations should be retained and reclassified as Traffic Court employees. Currently, the Traffic Court is authorized to employ "as many deputy clerks as there are regular judges, and such clerical assistants as the judges determine are necessary for the efficient operation of the court."<sup>[24]</sup> The Panel, however, recognizes that a performance audit is necessary to determine the number of deputy clerks and clerical assistants needed for the efficient operation of the Courts, and thus, the Panel recommends that the new Traffic Court judges (existing and

interim) implement the audit's recommendations in this regard. If the audit determines that the number of deputy clerks necessary to run the combined courts is less than the number of regular judges in the combined courts, it is likely that Section 14 of the Traffic Court Act will require amendment.<sup>[25]</sup> Again, to the extent that the contemplated amendment conflicts with either the existing general laws or the Georgia Constitution, a general law amending the provision is required. However, any change that does not conflict with the existing law arguably can be accomplished through amendment of the Atlanta City Charter.

Traffic Court judges currently determine the number of clerical assistants employed by the Court.<sup>[26]</sup> However, there is no set number of assistants who may be employed. Accordingly, it will not be necessary to amend this section in order to implement the audit recommendations regarding clerical assistants.

## ii. Bailiffs

The Panel recommends that, at the conclusion of the audit, the new Traffic Court judges, in consultation with each other, implement the recommendation of the audit as to the number of bailiffs necessary to operate the Courts following an operations merger. The Panel suggests that the bailiffs be organized out of a central office in the new City Courthouse (there appears to be existing space for the bailiffs in the basement of the new building). The office should be headed by a Chief Bailiff responsible for managing the bailiffs and their schedules. The bailiffs' office should be operated under the administrative and managerial authority of the Traffic Court. Each bailiff in the office should serve in either or both divisions of the combined courts as directed by the Chief Bailiff, but all of the bailiffs should be classified as Traffic Court employees. Bailiffs will thus be assigned on an as needed basis and not to a particular judge or courtroom. An operational merger of the Courts, including a consolidated bailiffs' office, will allow for

greater utilization of the bailiffs, resulting in a more efficiently run court, ultimately creating savings for the City.

The proposed change -- organizing the bailiffs into a single office headed by a Chief Bailiff and managed by the Traffic Court Clerk -- likely requires amending Section 15 of the Traffic Court Act. This section provides that there will be the same number of bailiffs in the Traffic Court as regular judges and that bailiffs shall serve at the discretion of the judges. Accordingly, this section may require amendment to allow for the hiring of bailiffs and to create the position of Chief Bailiff. To the extent that this proposal conflicts with the current provision regulating the number of bailiffs authorized, amending this section of the Traffic Court Act is likely required and is advisable.<sup>[27]</sup> Amendment is advisable in any event as it appears that the Traffic Court is currently in violation of this provision.

b. Court Services

An additional benefit of an operations merger is that the duplicative services currently being performed by both Courts can be consolidated into a single office, at a single location, and offered to both Courts. Accordingly, at the conclusion of the performance audit, those services currently provided by both Courts should be merged as recommended by the audit into a single office. Merger of these operations will result in reduced costs associated with the staffing and maintenance of separate offices.

Merger of the operation of court services does not present any legal obstacle because the services are not regulated by local or state legislation. While this change can be accomplished relatively easily from a legal standpoint, this does not diminish the significant services provided by these offices. It is the expressed desire of the Panel that these offices continue to provide the same, if not increased, level of service. The Panel also recognizes that it is possible that once the offices are merged there will be reduced



staffing needs. Accordingly, following an audit of the operational needs of the Traffic and Municipal Courts, the Panel suggests the implementation of the audit results.

5. *Step 5: The Municipal and Traffic Courts' Solicitors' Offices Should be Combined into a Single Office, as Should the Municipal and Traffic Courts' Public Defenders' Offices. Once Consolidated, the Offices Should Attempt to Implement the Audit Recommendations.*

The Panel recommends that the Municipal Court and Traffic Court Solicitor's offices be combined into one office space. The Traffic Court Solicitor is currently slated to move into the new City Court building. The Panel recommends that the Solicitor's office in the new City Court building absorb the Municipal Court's Solicitor's office, if possible. Similarly, the Panel recommends that the current Municipal Court Public Defender's office be absorbed into the Traffic Court Public Defender's office, if possible.

In addition, the Panel recommends that the Solicitors of the Municipal and Traffic Courts and the Public Defenders of the Municipal and Traffic Courts, in consultation with each other, implement the recommendations of the performance audit. The Panel recommends that these groups attempt to accomplish this task together because the Panel believes that, in light of the significant caseload reduction in the Municipal Court, there will be a number of non-essential personnel in the Municipal Court's Solicitor and Public Defender's offices. The Panel's hope is that these individuals can be retained by the Traffic Court's Solicitor and Public Defender offices, if the audit identifies a need for additional personnel in these offices.

6. *Step 6: The City Should Configure the City Court Building to Meet the Needs of the Combined Operations and Move the Combined Operations into the City Court Building.*

The Panel proposes that the newly combined operations of the Courts be housed in the new City Court building with the Courts sharing all facilities including: courtrooms, chambers, filing office(s), administrative office(s), etc. By virtue of all of the judges serving in the combined court as Traffic Court judges and as Municipal Court judges

and, as a result of the operations merger, the Traffic Court and Municipal Court will operate in large part as a single court for administrative and financial purposes.

Housing the Traffic Court, Municipal Court, and consolidated offices in a single facility should not create any legal obstacles, as the City is vested with the authority to determine the location of the Traffic Court as well as the Municipal Court.<sup>[28]</sup> The Panel notes that the new City Courthouse should provide adequate space for the combined operations. The City Court building is currently slated to house nine courtrooms and a first appearance court. The Courthouse is currently scheduled to have nine chambers. There is room for a tenth courtroom on the third floor of the building and a tenth chamber. That space is currently slated to house two senior judge offices, three *pro hac* offices and a bailiff office. In light of the fact that there will no longer be a need for *pro hacs*, or senior judges, this space should be eliminated to make room for an additional judge's chamber.

There is an entire floor (the fourth) that has not been built out. This floor could be configured to house the chambers of the remaining judges and possibly additional courtrooms. It is also possible that two judges could share each of the existing chambers areas by reconfiguring the walls within the chambers. This would seem to be especially appropriate in light of the fact that the judges' chambers in the new building contain offices for non-essential personnel which could be easily converted to chambers space, and the NCSC study has already stated that the Traffic Court judges should be sharing administrative staff. The Panel believes that it is highly unlikely that this recommendation (that the judges should share secretarial staff) will change in a subsequent audit. The Clerks' offices likely also will need to be reconfigured from the current plans to accommodate two separate clerk operations. The Panel believes that this should be accomplished through consultations between the current clerks of the two Courts, the judicial administration, and the City.

The Panel recognizes that the new City Courthouse is still incomplete and that modification to the existing building plan may increase costs in the short term. The Panel also recognizes, however, that some of these costs may be mitigated if properly handled.

The Panel suspects that if the Municipal Court is physically moved into the new City Court building, the Municipal Court building will be unoccupied. The Panel recommends that the City rent or lease either all or some part of the unoccupied space in the current Municipal Courthouse to either other City departments<sup>[29]</sup> or to Fulton County.<sup>[30]</sup> Not only would the Panel's proposal benefit the City by allowing it to rent out unnecessary space, but the considerable expense of maintenance and upkeep on two buildings would be significantly reduced if the Courts were able to consolidate into one building.

7. *Step 7: After the Combined Court Has Been in Operation, the City Should Commission a Second Performance Audit and a Fiscal Audit to Assess the Workings of the Combined Court and Make Additional Changes, As Necessary, Based on the Audits' Recommendations.*

The Panel recommends that the City commission a second performance audit and a fiscal audit once the combined operations have been ongoing for twelve consecutive months. These audits are a central part of the Panel's recommendations. The Panel recognizes that the initial audit will only be able to make *projections* regarding the needs of the combined operations. The second performance audit and the fiscal audit will be necessary to determine if additional changes need to be made and if the Courts are operating efficiently as a combined operation. At the conclusion of these audits, the Panel recommends that the City and the Courts implement the audits' recommendations.

## VI. RECOMMENDATIONS FOR FUTURE CONSIDERATION

The Panel considered as part of its charge the possibility of a totally unified city/county court system. While there have been a number of cities and counties throughout the state and the country which have “merged,” very few have merged their judicial systems. Some portions of judicial systems have been contracted to another entity, and this information is discussed below. Most city/county governments that have a totally ***unified*** system have been unified on a statewide basis. The state of Minnesota, a state system studied by the Panel, is one of the states with a unified system.

As part of the Panel’s review, it interviewed and discussed the possibility of unification with several judges and officials of the City and Fulton County. The Panel concluded that, while there were some advantages to a unified system, such systemic change would require substantial state legislative action. Furthermore, such a change would obviously have to be agreed upon by all of the entities which would be affected. The Panel determined that such an alternative would go beyond the immediate objectives of its charge and its resources. Nevertheless, the Panel believes that the City government should continue to be alert to unification alternatives. Both the City and the county should discuss all alternatives that might bring about efficiencies in the judicial branch of government.

### *Contracting*

One potential mechanism for unifying Atlanta’s courts with the county system would be to implement a contract between the City and the Fulton and DeKalb County State Courts. Georgia law permits a municipality to contract with a county to “furnish municipal court services to the municipality.” See O.C.G.A. 15-7-80. In addition to the governing authorities of the county and the City, the state court judges in office would have to approve the contract. See O.C.G.A. § 15-7-81. The contract may not extend beyond the terms of the judges’ terms in office.<sup>[31]</sup> See O.C.G.A. § 15-7-81. Under such

a contract, all officers and personnel of the state courts would have the authority to act as officers and personnel of the Atlanta Municipal Court.<sup>[32]</sup> See O.C.G.A. § 15-7-82.

The Georgia statutory scheme as well as the case law and practical experience generated under the contract between the City of La Grange and Troup County provides guidance on some of the issues that should be considered under a potential contract between the City of Atlanta and Fulton County. First, it is important to note that the contract would not create concurrent jurisdiction in the state and municipal courts. When exercising the terms of the contract, the Fulton County or DeKalb County state court judges would not sit in the capacity of state court judges but would instead assume the role of judges of a municipal court, with all of its limited jurisdiction. See *Reed v. State*, 229 Ga. App. 817, 819 (1997) (reversing conviction of defendant where prosecutor failed to produce evidence of municipal ordinance and judge was sitting as a state court, rather than municipal, judge); *Calloway v. State*, 227 Ga. App. 775, 776 (1997) (same).

The State courts and the Municipal courts would have to remain separate, and the state court would have to specifically identify when it was acting in its municipal court capacity. See *Poole v. State*, 229 Ga. App. 406, 408 (1997). See also O.C.G.A. § 15-7-83 (“When acting as officers of the municipal court all judges and other officers of the state court shall be styled as judges and officers of the municipal court; and all pleadings, process, and papers of the municipal court shall be styled as such and not as pleadings, process, and papers of the state court”). Further, the municipal court dockets and other records would have to be maintained separately from those of the State court. See also O.C.G.A. §15-7-83; *Poole*, 229 Ga. App. at 408. In *Reed*, the Court of Appeals noted that this clear designation between a judge sitting as a municipal court judge and a judge sitting as a state court judge protects due process in that it affords pretrial notice to the accused as to the charge of which he is accused, delineates the authority and jurisdiction of the presiding judge, impacts on procedures relating to a

defendants' right to trial, and, upon conviction, affects the defendant's appellate rights. See *Reed*, 229 Ga. App. at 819, 495 S.E.2d at 315. Moreover, "the required separation of judicial identity and functions controls whether any fines collected will be directed into county coffers or city coffers." *Id.* at 820, 495 S.E.2d at 315. Additionally, since municipal courts may not hold jury trials, once a defendant requested and was granted a jury trial in a misdemeanor case, the case would cease to be a municipal case and would become a county case.

Second, unification could result in a loss of municipal control. According to the current City Manager of LaGrange, the LaGrange-Troup County contract was allowed to expire primarily because the city was dissatisfied with the attention given to municipal ordinance offenses. The state court, which was also responsible for hearing more serious criminal offenses as well as civil cases, did not treat ordinance violations with the level of interest or seriousness that the city of LaGrange would have liked. LaGrange maintains that re-establishing the municipal court helped to give the city more control over the enforcement of ordinance violations without creating a financial liability for the city.

It is entirely possible that an agreement for municipal court services could be established between Atlanta, Fulton and DeKalb counties that would be satisfactory to all parties. Before establishing such an arrangement, several logistical issues should be considered. An examination should be made to determine whether the state courts can effectively absorb Atlanta's caseload. The parties also would need to consider closely the financial terms of the contract between the City and counties which would certainly impact court administration.

## **VII. CONCLUSION**

The structure of modern society has required that all institutions -- business, professional, civic, charitable or governmental -- reevaluate the way that they have

operated over the years in order to become more efficient. Traditional modes of operation have had to bend to conform to standards of accountability to the constituency involved. Now, change is required in the judiciary. The Panel understands that its recommended changes affect the culture of these two important Courts. In this review, the Panel has kept in perspective the importance of the Courts' independence and their ability to render fair and impartial justice to Atlanta's citizens. The Panel respectfully submits that any recommendation that is made in this Report will not compromise the ability of the Courts to maintain their independence nor compromise the goal of achieving fundamental fairness for the public. The Panel believes that the recommended changes will be in the best interest of the Courts and the public.

RESPECTFULLY SUBMITTED,

Byron Attridge

Ted C. Baggett

Paula J. Frederick

Mark J. Kadish

Teresa Wynn Roseborough

Thomas G. Sampson

---

\* See List of People Interviewed In Connection with the Independent Review Panel's Investigation attached as Exhibit 54.

<sup>[1]</sup> The Official Code of Georgia in § 36-32-3 provides that “[a]ll judges of all municipal courts in this state shall have and are given the same powers and authorities as magistrates in the matter of and pertaining to criminal cases of whatever nature in the several courts of this state.” Accordingly, municipal court judges are authorized to act as magistrates -- that is to take pleas, and bind cases over to the state courts. Only the State and Superior courts, however, have jurisdiction to try and convict persons charged with state offenses, except that the Traffic Court can try and punish state *traffic* offenses and same occurrence misdemeanors.

<sup>[2]</sup> The 18,396 number does not take into account cases involving ordinance violations that were reset. Unfortunately, the Municipal Court could not provide the Panel with the number of ordinance violations cases that were reset.

<sup>[3]</sup> A substantial portion of the defendants who appeared in the Municipal Court were “bound over” to the State courts or the charges against him or her were dismissed. Moreover, unlike most municipal courts in this state, the Atlanta Municipal Court does not handle traffic cases which are traditionally revenue generating. Finally, a number of the defendants are indigent. Therefore, it is not remarkable that the fines collected by the Atlanta Municipal Court are low.

<sup>[4]</sup> While the cost of operating the Municipal Court **increased** by \$2,986,698.00 between 2000 and 2002, the number of charges processed **decreased** by over 10,000 between



2000 and 2002 and the total amount of fines **decreased** by \$248,578.00 between 2000 and 2002.

<sup>[5]</sup> This number does not reflect cases that were reset for hearing on a different day because the Municipal Court could not provide that data.

<sup>[6]</sup> This number does not reflect cases that were reset for hearing on a different day because the Municipal Court could not provide that data.

<sup>[7]</sup> This number does not reflect cases that were reset for hearing on a different day because the Municipal Court could not provide that data.

<sup>[8]</sup> It is important to understand that when the Panel notes that personnel numbers are “excessive,” or “non-essential” it should not be construed that any individual is not performing the work that he or she has been assigned. It does mean that the particular work or task can be performed efficiently with fewer personnel. For example, there may be two people performing a task that could be handled by one, or three people being used when two people can handle a task, and so on. Virtually every institution in this country (including governmental institutions) has undergone evaluation processes in order to improve its efficiency and accountability to its constituency -- in this case the public.

<sup>[9]</sup> Two solicitors have been loaned to the solicitor of the State Court to handle the transfers from the City Jail. The Panel commends this type of inter-governmental cooperation.

<sup>[10]</sup> The Panel agrees that a new Traffic Court building is badly needed and probably long overdue. The current facilities are cramped, outdated and in disrepair.

<sup>[11]</sup> It is the Panel’s understanding that prior to 2003, after the judge left his or her morning or afternoon assignment, the bailiff was free to leave, having worked only a few hours. The Chief Judge of the Traffic Court has informed the Panel, however, that the Court is now assigning the bailiffs and other staff members to other duties, once they finish their morning or afternoon assignment. The Traffic Court gave the example that a bailiff assigned to a morning session may attend court in the morning and be assigned to shred documents in the afternoon. While laudable the Traffic Court’s attempt to keep the individuals busy, it is not necessarily efficient because people are being paid to perform tasks that are inconsistent with their pay scale.

<sup>[12]</sup> The fact that the Traffic Court cannot provide such numbers is a concern to the Panel. According to the Chief Judge, the Traffic Court is currently attempting to set up a recording system that will allow it to track judicial attendance. The Panel agrees that this is a very important step.

<sup>[13]</sup> As one interviewee put it, people move into the space they have.

<sup>[14]</sup> It is observed that **every** judge has a personal library (in addition to a personal conference room) in his or her chambers. In contrast, the Solicitor’s office has only one small room for a library. Yet, in the Traffic Court (unlike the State or Superior courts) it is the lawyers, not the judges, who conduct the bulk of the legal research.

<sup>[15]</sup> Most Municipal Police Departments in Fulton County and in the Fulton County Police Department are also effectively using the Complaint Room.

<sup>[16]</sup> The Complaint Room has enhanced a unification of County and City processing of felony cases. The Solicitor-General of the State Court has not utilized the Complaint Room in misdemeanor cases.

<sup>[17]</sup> The Panel recommendation in this regard is not a reflection on the ability of the individual senior or *pro hac* Judges' ability -- the recommendation concerns merely the system which uses senior and *pro hac* Judges in an amount of time equal to three to four regular judges full time.

<sup>[18]</sup> As noted above, there is currently a statute in place which requires the Traffic Court to call upon senior (or retired) judges before it calls upon any other judge to sit in the Traffic Court. See 1998 Ga. Laws 559. Arguably, this statute would require the Traffic Court to call upon the senior (retired) judges before it called upon the Municipal Court judges. Clearly, the City should be able to call upon the Municipal Court judges first, as they are full-time, sitting judges and can sit on the Traffic Court at no extra cost to the taxpayers. By contrast, the senior judges are paid a significant *per diem* in addition to their retirement pay. The Panel recommends that the City seek the repeal of this statute.

<sup>[19]</sup> See 1996 Ga. Laws 627.

<sup>[20]</sup> See 1996 Ga. Laws 627, § 7.

<sup>[21]</sup> To the extent that the proposed changes do not conflict with existing 1996 Ga. Laws 627, § 14, it is likely that changes may be affected by amendment to the Atlanta City Charter. Where, however, the contemplated changes are in conflict with 1996 Ga. Laws 627, § 14, a general law is required to amend the existing provision. See O.C.G.A. § 36-35-3.

<sup>[22]</sup> See 1996 Ga. Laws 627, § 14.

<sup>[23]</sup> See 1996 Ga. Laws 627, § 14 providing that: "[t]here shall be a clerk of each such court, . . . appointed by the judges of each such courts in conference and shall serve at their discretion."

<sup>[24]</sup> See 1996 Ga. Laws 627, § 14.

<sup>[25]</sup> Even if the City of Atlanta decides not to amend this section, the Panel recommends at the very least that the City consider enforcement of 1996 Ga. Laws 627, § 14 such that the number of deputy clerks does not surpass the number of "regular judges."

<sup>[26]</sup> See 1996 Ga. Laws 627, §14 stating that: "[t]here shall be . . . such clerical assistants as the judges determine necessary for the efficient operation of the court."

<sup>[27]</sup> It is arguable that the Chief Bailiff position may be created by ordinance, as the proposal does not conflict with Section 15 of the Traffic Court Act because there is no provision regarding a "Chief Bailiff" position. While this recommendation may be accomplished by ordinance alone, the Panel, in an abundance of caution, suggests amendment through a general law.

<sup>[28]</sup> See 1996 Ga. Laws 627, § 21.

<sup>[29]</sup> As an example, the City of Atlanta Police Department is currently considering relocating its command center and could conceivably rent space from the combined court.

<sup>[30]</sup> Alternatively, the County may also be interested in renting the available space from the City. The City is authorized to rent space to the county under O.C.G.A. § 36-34-2 (authorizes municipal corporations to enter into contracts with counties or other political subdivisions for the joint use of facilities).

<sup>[31]</sup> The Fulton County State Court judges serve 4-year, staggered terms. Thus, such contracts would be subject to frequent renewal.

<sup>[32]</sup> One legal issue of first impression that would need to be examined is whether the City would need to contract with *both* Fulton and DeKalb County State Courts. Municipal courts in existence before June 30, 1983 are exempt from the provisions on Paragraph VI, Section II, Paragraph VI, which establishes venue for criminal cases in the county in which the crime occurred. If a contract with a county creates a “new” municipal court, Constitutional venue provisions would become applicable and cases occurring in the City of Atlanta in DeKalb County would have to be tried in DeKalb County. See *Waller v. State*, 231 Ga. App. 323 (1998) (holding that while Atlanta City Court is exempt from the provisions of Article VI, Section II, Paragraph VI of the Georgia Constitution which establishes venue for criminal offenses in the county of their occurrence, the local Act creating the City Court requires misdemeanors to be tried in the county of their occurrence).

#### Confidentiality Notice

This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by e-mail and delete all copies of the message.